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THE UNKNOWN WASHINGTON

THE RETURN OF THE MIDDLE CLASS

THE ELIZABETHAN HAMLET

AN AMERICAN AT OXFORD

CHARLES SCRIBNER'S SONS

THE
UNKNOWN WASHINGTON

The UNKNOWN WASHINGTON

Biographic Origins of the Republic

By John Corbin

George Washington is an unknown man.—McMASTER.

As to the inner man we are strangely ignorant. No more elusive personality exists in history.—CHANNING.

An atmosphere of silence envelops the deeds of Washington.—CHÂTEAUBRIAND.

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IN MEMORY OF

CALVIN RICH CORBIN

1832-1913

A NEW ENGLAND REPUBLICAN
OF THE WISEST AND BEST

43920

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BOOK ONE

THE PROBLEM

CHAPTER I

AN AIR-HOLE IN HISTORY

I

"The Revolution of 1800," wrote Thomas Jefferson in his old age, "was as real a revolution in the principles of our government as that of 1776 was in its form." First noted by Henry Adams with a puzzled and dubious air, the striking sentence has rarely been quoted, and only as a rather grandiose reference to the party victory of the early democrats over the Federalists. Jefferson meant something more than that. His correspondence during the years following his resignation from Washington's cabinet shows that his mind was much occupied with the difference between the "principles" of a government and its "form." The sentence is no more neatly balanced than the words are carefully chosen; it can only mean that the change which he wrought in the programme through which Washington established our liberty and gave permanence to our union was fundamental and indeed subversive. Author of our Declaration of Independence and high priest of the French radicals of 1789, he could not use lightly the word *revolution*.

A clew to his meaning may be found in that storehouse of observation and anecdote which he quaintly called *Anas* (Washingtoni*ana,* Hamiltoni*ana,* etc.). With regard to Hamilton, John Adams and the lesser lights of the early republic his tales of partisan gossip have been variously appraised according to political predilections; but his strictures on Washington have found favor with few or none. True, Jefferson veils them beneath an outward show of respect for the venerated idol of the people—beneath a character sketch which shows his literary art and his divination of human nature at their brightest. Yet charges leap to the eye which seem little short of malicious. Though Washington was fifty-six when he came

to the presidency, his faculties were "already sensibly impaired by age"; "the firm tone of mind for which he had been remarkable was so 'relaxed' and 'abated' " that "he let others act, and even think for him." Though he was pre-eminently the man of affairs and had been identified with large financial and commercial interests from boyhood, he was "unversed in financial projects and calculations and budgets," and so allowed himself to be bamboozled—"not aware of the drift, or of the effect of Hamilton's schemes." Though the Federalists professed to be striving only for the nation's solvency and honor, for its permanence and its authority in international affairs—for the ripe fruits of its new liberty, in short—they were in reality plotting, under Washington's authoritative but senescent nose, "to force, through anarchy, their way to monarchy." So he raised the cry of *Monocrats! Anglomen!*

One of Jefferson's early editors disclosed a wish that the *Anas* had been suppressed, as were so many revealing documents of the time: he excused himself for reprinting them on the ground that they had been deliberately prepared as a legacy and vindication. Of that there can be no doubt. In his old age the Sage of Monticello carefully revised contemporary jottings, eliminated with his calmer judgment, as he assures us, whatever had been prompted by "the passions of the time," preserving only "the reasons" that had inspired his revolution. These he summed up quite briefly. "The contests of that day were contests of *principle,* between the advocates of republican and those of kingly government." And so, as the principles which animate a government are more important than its form, Jefferson's Revolution of 1800 was greater than Washington's Revolution of 1776.[1]*

In reciting all this it is not possible, try as one will, to banish the spirit of irony. Nor is it really desirable. Even from the biographer's point of view of characterization, it is well worth while to note and sift Jefferson's ample assumptions, his bland self-revelations, his darkling subtleties, his occasional and highly successful tarrididdles. To ignore them is to close the mind to one of the most illuminating traits in a genius as complex, as fascinating and baffling, as it was powerful for good. It is a wan and feeble reverence

*The notes in Appendix I are merely references to texts cited. When there are various editions of collected writings, passages may be identified by the date.

which is incompatible with candor, a crudely naïve conception of portraiture which insists that statesman and hero shall live only in the attitude illustrious. To the historian likewise, vagaries and ineptitudes of the great are often as significant, as instructive, as their triumphs.

II

Nor was Jefferson's gigantic claim altogether vagarious, ignored though the fact has been by his warmest champions. If one takes the words quite literally, sifts their meaning, they may be very largely justified. Washington's revolution, like the two English revolutions of the seventeenth century, was in some ways conservative: John Fiske called it "the most conservative revolution in history." Jefferson's revolution of 1800 was—at least as regards its ideas and phrases—as radical as the French Revolution which preceded and largely inspired it. Of the significance of this, his biographers seem hardly aware. Their praise of the Father of Democracy is unclouded by the thought that Jefferson's triumph was the defeat of a cause that Washington held most dear.

To the Constitutional Convention, and to the party that clustered round Washington, the tide of equalitarian democracy, even then gathering head in the land, was a fear and a portent. Their revolt had not been against the English Constitution, which they thought the best safeguard of liberty as yet devised by man, but only against abuses and infractions of it destructive to their liberty, to the traditional liberty of Englishmen. Any attempt to reproduce it literally they knew to be contrary to what they recognized and deeply respected as "the genius of the American people." We had never had an aristocracy; and, having so successfully revolted against our King, we were in no mood for such things. But to the Constitutional Fathers, as to all thoughtful observers in Europe, the future seemed by no means assured. Having refused to be overawed by a monarch, refused to permit that representatives of the people be held in check by a superior and permanent caste of men, what authority were they to erect in place of King and Lords? Throughout history as they read it, it was precisely for the lack of such a counter-balancing authority that free governments had "degenerated" into direct democracy, eventuating in a tyranny far more abhorrent to them than that

which they had just thrown off. Time and again in the records of the Convention there is evidence of the clearest that their purpose was to reproduce the principles of the English Constitution, changing only its outward forms. Our Senate was to reproduce the principle of the House of Lords, our President the principle of the English monarch as it then appeared.

One innovation the Convention did make, and it was fundamental. Scorning the limited, inequitable and corrupt franchise upon which English liberty was founded as deeply as it scorned King and Lords, it vested the original, the constituent, authority in the people as a whole. Instead of a monarchy, it set up a broadly based republic. In the then modern world, that was stupendous. But a republic is a very different thing from a democracy—or ours was so in the intent of the men who framed it. So long as the Constitution stands it is supreme, not the people—who speak only through the various governmental agencies. The few who are presumably endowed with wisdom and experience in large affairs are, at any given crisis, firmly intrenched against mass movements, quite in the manner of the Kings and Lords of Old England. In this sense, our Constitution was, and largely remains, the reverse of democratic. Never since 1788 has any question of basic law been submitted to the will of a mere majority.

Not so the English Constitution: the House of Commons by majority vote may change and indeed reverse it. In this respect the effect of our Revolution—of our Revolutions—has been far greater in Europe than with us. There, the new and subversive principle has wrought out for itself appropriate forms. It is a paradox that cannot be too closely considered. At the time of the Versailles conference, such kings as remained said farewell to all their greatness from the dizzy heights of Switzerland or trembled in their capitals before every breath of a democratic majority. England retained her King and Lords in outward show; but where they once held equal sway with the Commons, or were thought to do so, all power was now concentrated in the representatives of the people—the purest and most powerful democracy in the world. European prime ministers are said to wield absolute power, and do so as long as they can count on a parliamentary majority; but at Versailles there was not one of them who neglected to keep his ear to the ground for the least

murmur of popular dictation. The President of the United States, as it happened, was an ardent democrat; but, secure in his term of office, he wielded an authority that astounded those "absolute" premiers. After the peace, the discerning Hilaire Belloc wrote a book calling upon England to return to "monarchy"—his idea of a monarch being our President, with his "reign" preferably extended to seven years.[2] In that sense certainly, Alexander Hamilton was, as his enemies called him, a monocrat; and he strove to strengthen the "monarchic" power with an immoderate and reckless zeal which Jefferson knew well, albeit biographers and historians have curiously failed to record and psychologize it.

Though the "monarchic" form remains in our government, however, it is subject to a curious anomaly. In no country in the world is equality of opportunity as great—the fluidity of social classes. The democracy of England has modified only in part and tardily a rigid barrier of classes inherited from the Middle Ages. Our dominant spirit, the live and vital principle of our government, is more thoroughly equalitarian than that of any European country. That it should become so was perhaps predestined by American character and economic conditions, but its first great exponent and leader was Thomas Jefferson. In brief, the Revolution of 1800 evoked a spirit and a set of ideas that are deeply antagonistic to the form of our government.

In a way all this is familiar; yet one may question whether it has been drastically analyzed. Least of all are the Jeffersonians inclined to dwell upon the flat contradiction between Jefferson's revolution and Washington's. One and all of us assume that, except for the Civil War, the development of our constitutional theory has been even, continuous. The phenomenon is not so strange as may appear. It arises from the very completeness and pervasiveness of the change which Jefferson effected. It took the World War and its backwash to arouse us to the confusion of our thought. The very word democracy is without definition. Viscount Bryce notes the various senses in which it is used, gravely permitting us to smile at our way of describing this king or that as "democratic" because he is "a good mixer."[3] But neither he nor any of our own students of existing constitutions clearly recognizes the completeness of the subversion of the old English theory, nor the equally complete contradiction

between the Jeffersonian "principle" and the Federalist, the Washingtonian, "form."

There is something curious and ironic in the confidence with which a generation speeds onward. For the most part, the world of history seems as clear and sharp in outline as the world that unfolds beneath an aviator. But there are pockets in the air—"airholes." Without warning the bottom drops out. Where everything seemed steady and true comes bewilderment, vertigo. A new balance is instantly needful, a new orientation. Something of the kind has occurred in the past decade. As a Scotch cartoonist expressed the case, seven parliamentary constitutions set up on the Continent in the effort to "westernize" government have themselves "gone West," falling beneath dictatorships. Even we Americans, secure and great as never before, have become prey to a deeply abiding distrust of our democracy. May it not be permitted to search the lives and thought of the Fathers with a fresh eye, to challenge their most formidable biographers?

III

Precisely what was Jefferson, and what the "principle" of his revolution? So far as his way of life was concerned, and in a measure too his constitutional theory, this great creator and exponent of modern democracy was no more a democrat—in some respects far less so—than either of his chief antagonists. Henry Adams, himself tinged with the democratic tradition, has pointed out in his monumental *History* that Jefferson was as essentially aristocratic in his life and manners as his great Federalist opponent, John Marshall, was republican. The Chief Justice was at his happiest when foregathering with his neighbors at club and tavern, singing songs about the punch bowl and pitching quoits in the yard. The soul of Jefferson craved the distinction and the retirement of manorial life. Through all his parliamentary experience, he could never bring himself to debate in public, and he shrank with a timidity little short of morbid from taking part in newspaper discussions. His only intimates were his family and a few political friends, and his daily wants were ministered to by slaves whom he housed in wretched hovels and required to approach his mansion through long tunnels underground. His seat at Monticello was not only the most

beautiful in America, for he was great also as an architect, but it was among the most elaborate, spacious and magnificent. He continued to live in manorial splendor until he died, though in late years a bankrupt. Washington became one of the richest Americans of his time; but Mount Vernon remained to the end a simple planter's mansion, the centre of a community of slaves whom he housed well according to the standards of the day, and in whose ailments he took a patient and liberal interest—the executive centre of busy, kindly plantation life and household industries.

Jefferson's political theory was involved and baffling as his character. In its pristine form, it was that of his associates of the Revolution of 1776. He shared the belief, then thoroughly warranted, that the English Constitution afforded the most nearly perfect guaranty of freedom known in history. In denouncing hereditary monarchy and hereditary aristocracy, the entail of estates and all encroachments upon religious liberty, he wielded the most trenchant pen in America except that of Thomas Paine; but in Constitutional principle he did not differ from Washington and John Adams—scarcely even from Hamilton except where his vehemence and his flair for popular phrases made him for the moment unphilosophic and illogical. True, he criticised the Revolutionary Constitution of Virginia (1776) as giving undue strength in representation to the aristocratic tidewater counties; but in that he voiced the opinion of all truly liberal men. Equally clear-cut was his disapproval of its "democratic" features. The Senate was not sufficiently distinct from the popular branch in "interests" and in "principles"—that is, not sufficiently raised above it in "wealth and wisdom." Very pointedly he objected to the limited powers of the Governor and to the fact that the judiciary were "dependent on the legislative for their subsistence in office and some of them for a continuance in it." This concentration of power in a popularly elected body was an achievement of the democratic movement, already on foot in Virginia; but Jefferson, echoing Locke and Montesquieu, called it "precisely the definition of despotic government."[4]

Jefferson's theory, in brief, was that of the English Constitution as then understood and lauded by John Adams and Alexander Hamilton—of our national Constitution as written. When this was promulgated in 1787 he objected, indeed, to the fact that it con-

tained no Bill of Rights; but the issue was not whether the rights in question should be established but whether they were not already safeguarded without a specific Bill. Madison, among many others of liberal mind, held that a Bill of Rights would be superfluous. Throughout his life Jefferson proclaimed the most absolute loyalty to the Constitution, insisting only that it should be strictly construed.

What then is the "principle" upon which he based his Revolution of 1800? His point of attack is obvious as a battering-ram. In the face of Washington's clear statement to the contrary, he declared and reiterated that the Federalist party were striving to "consolidate" the national power to the obliteration of the States, and to set up a monarchy. A century and a half of research has afforded no evidence of any such purpose—even of any vague hope, except among unorganized individuals.

As for his constructive theory, even its bare outline is delusive and beset with pitfalls. Though he proclaimed self-evident truths and courted the name of philosopher, his logic is not always cogent or even clear—least of all systematic. He is clearest when, late in life, in a letter to Spencer Roane, he echoed the ideas of his famous contest with John Marshall. The "right of exclusively explaining the Constitution" which the Supreme Court had established under Marshall was a sheer "usurpation." If it was warranted, "then indeed is the Constitution a complete *felo de se.*"

> For, intending to establish three departments, co-ordinate and independent, that they might check and balance one another, it has given, according to this opinion, to one of them alone, the right to prescribe rules for the government of the others, and to that one too which is unelected by and independent of the nation. . . . My construction of the Constitution . . . is that *each department is truly independent of the others, and has an equal right to decide for itself what is the meaning of the Constitution* in the cases submitted to its action.

The three departments are thus "inherently independent of all but moral laws"—that is, independent of the Constitution as interpreted by the Supreme Court. As regards any particular Congress or President, this independent right of interpreting the Constitution can obviously last only during the tenure of office. Where then is the final authority, the ultimate "check and balance"? It "can be trusted nowhere but with the people in mass."

Though the statement is unwontedly specific and clear, thanks to its application to the Marshall controversy, it does not differ essentially from a vaguer statement, apropos of the Sedition act, which Jefferson wrote in the mood of the triumph of the Revolution of 1800. This was in the draft of his first inaugural address, and he struck it out—very wisely, it would seem—"as capable of being chicaned, and furnishing something to the opposition to make a handle of." Gilbert Chinard, at once the most thoroughly documented and most candid of his biographers, contends that Jefferson was the only original political thinker America has produced, and that he drew up "the first complete definition of government and of Americanism." If we are to arrive at the truth of this claim, we must consider closely the Jeffersonian theory in its opposition to the political thinking of the men who gave to Americanism its enduring norm in the Constitution.[5]

Construe the Constitution as strictly as one will, it is not true that it makes, or intended to make, the legislative, executive and judicial departments absolutely "co-ordinate and independent." Montesquieu's "law" as to the separation of powers, as he himself remarked, was not rigidly observed in his great model and exemplar, the English Constitution. Our constitutional Fathers were well aware, and in *The Federalist* Madison pointed out clearly, that in specific instances they had broken it, as when they provided that the Senate share with the Executive in appointing ministers and in the treaty-making power. No more is it true that the Supreme Court can "prescribe rules" for the other departments, or that it has ever attempted to do so. Its only power is negative—to declare an act unconstitutional. This power, though first fully demonstrated by Marshall, had long been familiar in the practice of State courts; and, as Professors Beard and Corwin have shown, it was consciously intended when the national Constitution was framed.[6]

Was Jefferson for giving "the people in mass" more power than they enjoy under the Constitution? It would seem so, in spite of his professions of loyalty to it, his insistence upon strict construction. Though it was "we the people" who ordained and established the Constitution, the constitutional power of a popular majority ends there abruptly. Any change must be proposed by a two-thirds majority and ratified by a three-fourths majority of the States. Far less

than Jefferson's political acumen was needed to perceive that there was no hope in amendments of limiting the power of the Supreme Court, or any national power. There remained only one recognized recourse against those whom he denounced as unconstitutional, impeachment "by the popular branch of the legislature"; but this he knew to be "not even a scarecrow." If he meant anything by his declaration that the three departments are "co-ordinate and independent," subject only to "the people in mass," he meant that President and Congress are severally supreme while in office, but that the constitutionality of their conduct is subject to a popular referendum so often as election-day comes round. The authority he denied to the Supreme Court he vested in the people. The idea may seem paradoxical, but only to Americans. It is basic in the English Constitution and in true democracies everywhere. If all men are created equal and remain so, it is thoroughly logical and should be workable. Briefly stated, what Jefferson did was to construe the Constitution in the light of the most famous phrase in his Declaration of Independence. Speaking as a strict constructionist, he knocked the Constitution into the cocked hats of the men who framed it.

If this sort of thing is to pass as original political thinking, what shall one say of the conception of the Supreme Court and of a balanced federal republic—both unexampled in the history of the world?

If Jefferson was aware of inconsistency, he clothed it in words of great beauty—veiled it even from his bitter enemies. "Tranquillity," he concluded, in his letter to Roane, "is the *summum bonum* of age. I wish, therefore, to offend no man's opinion, nor to draw disquieting animadversions on my own. . . . Loving mankind in my individual relations with them, I pray to be permitted to depart in their peace; and like the super-annuated soldier, *'quadragenis stipendiis emeritis,'* to hang my arms on the post. . . . I resign everything cheerfully to the generation now in place. They are wiser than we were, and their successors will be wiser than they from the progressive advance of Science." It all comes down to the old familiar phrase. Jefferson effected the Revolution of 1800 not by any specific innovation, constructive or destructive, but by dint of "loving the common man," and of "trusting the American people." Through four generations all parties have echoed this

sentiment, and none more strenuously than the Republican Party.

To those who are happy in this loving trust—and who is not?—it may seem ungracious to assay and challenge it. Yet in view of the purer democracy of European governments, and the persistence of "monarchy" in our own, one may well feel the tumbling vertigo of the air-hole, the need of a new orientation. Time the whirligig is also a magician of perspective. It is possible that, like Jefferson, this whole nation has dealt in amiable generalities, leaving always the stern logic of our situation to the new generation—who tower always to greater superiority over Washington and Adams and Jefferson and Madison, yet always pass the buck. If so, the new wine of the democratic principle, which sometimes seems even greater and more powerful than the man who fermented it, will continue to work dangerously in the old bottle.

IV

It may help us to know the minds of the Fathers—and our own minds—if we consider what the Constitution would have come to if the Revolution of 1800 had been clean-cut and full-orbed—instead of being wrapped round in vaguely beautiful phrases, in visions of a future as melting with pathos as old, unhappy, far-off things and battles long ago. It needed only a leader more clear-sighted and consistent, though perhaps less astute politically: by name, Benjamin Franklin.

Never were two great democrats more strikingly contrasted. In spite of Jefferson's frequent protestations, there is reason to be sceptical as to his sympathy with the American people. "The mobs of great cities," he wrote in *Notes on Virginia* (1782), "add just so much to the support of pure government as sores do to the strength of the human body." Later, confronted by the sentence at a time when votes were to be cast and counted, he saw reason to love mobs a little more than that. As yet, he assured them, American workmen were "independent and moral" and could be relied upon to "continue so as long as there are vacant lands for them to resort to." Small vision there of the intelligence and energy that have made our industrial workers the most efficient and prosperous in the world!

Franklin's outlook was far different. An industrial workman himself for long years before he became a master printer, he strove no more ardently for his own education and cultivation than for that of his fellows. After attaining a modest competence—the loss of the twenty thousand pounds which he loyally pledged to provide shelter, food and conveyance to Braddock's army "would have well-nigh ruined" him—he devoted his life gratis to projects and inventions for the welfare of mankind. Though he became the most famous of Americans, except possibly Washington, he never lost touch with the workmen's club he had founded and loved as a journeyman; and in his will he provided a liberal fund to enable poor young men to set up for themselves in their trades as he had done. For all his shrewdly devious ways and his morals not quite idealistic, his love of mankind was pure and intense as it was practical. Where Jefferson's physiocratic philosophy had its end-all in a society narrowly agricultural, Franklin—Jeffersonian protests to the contrary notwithstanding—early came to see the creative force of manufactures and commerce, and strove unremittingly to develop them. He saw the American people in their future as in the present, with a vision as clear and bold and inclusive as it was ardently inspired by benevolence.

In political theory Franklin was a true democrat, at odds as Jefferson never was with the "principle" of the constitutional Fathers. In his account of his boyish quarrel with his elder brother, in his Autobiography, he says: "I fancy that his harsh and tyrannical treatment of me might be the means of impressing me with that aversion to arbitrary power that stuck to me through my whole life." Whatever the reason, he scorned the English Constitution, scorned Montesquieu and his division of powers. He had no use for the authority of the Senate as against the direct representatives of the people; no use for judges intrenched for life; no use for a President commanding army and navy, conducting all foreign negotiations, and fortified with a veto against House and Senate combined. His idea was to focus the will of the people in a single chamber with immediate power over both the judiciary and the executive—a weakly plural executive; and he willingly made even this constitution subject every seven years to such amendments as a Council of Censors might suggest and a mere majority adopt. In a word, he

specifically demanded from the start precisely the sort of thing Jefferson groped toward painfully, obscurely and without clear conviction. Such was the Pennsylvania Constitution of 1776 which was framed in accordance with his ideas, to the scandal of all orthodox constitutionalists, and which he later expounded to and successfully urged upon Turgot, Condorcet, and their group in Paris. That the French Revolution was launched under a "form" of government at one with the "principle" of our coming Revolution of 1800 was a triumph for Franklin of the first order—the triumph of a belief in the people of whatever nation, which he resolutely defended to his dying day.

Jefferson was indeed a waverer, his constitutional theory swaying with time and tide, and with his own political predicament, between the stanch democracy of Franklin and the stanch republicanism best exemplified, perhaps, in Washington. Following Franklin as our Minister to France, he appears to have been converted to the unicameral National Assembly which Franklin had advocated—but only as it became politically inevitable. His letter of advice to Lafayette of May 6, 1789, is a striking example of temporizing shrewdness. He suggested that the young nobleman declare in favor of a Senate, since "for good legislation two Houses are necessary," but only as a safe step toward the final and inevitable plump for unicameralism and the Third Estate—and all this as constituting "that honest and manly stand which your own principles dictate." Meanwhile he stood firmly for a hereditary king—Louis XVI—as head of the new Constitution; and in his extreme old age, maugre all his intermediate thumpings of "monocrats," he reiterated his loyalty to the wretched Bourbon. Yet even as he was sliding into approval of unicameralism in France he declared our bicameral Constitution "the wisest ever yet presented to men," and *The Federalist* "the best commentary on the principles of government which ever was written."[7] Such inconsistency, as the candid Chinard points out, is explained by the fact that, genuinely distrusting all *people in mass,* Jefferson especially distrusted the French; but the explanation only emphasizes the depth of his difference with the truly democratic Franklin.

It was only after he differed with Federalists intrenched in power that he challenged the authority of our Senate, only after his clash

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with John Marshall that he challenged the authority of the Supreme Court. As to the "department" which he himself headed, he was in the case of the Irishman of familiar anecdote who was all for an equal division of wealth until it came to his own possessions. As President, Jefferson *had two pigs.* Relying on the vast new democratic majority, this strict constructionist extended his own authority so far that, in his own momentarily rueful phrase, he "made of the Constitution blank paper." Where Washington had been scrupulously and unfailingly subservient to the Constitution, he out-kinged the Bourbon.

It is true that Franklin waived his democratic and unicameral convictions at the close of the Convention of 1787, but this was only in deference to the majority of his colleagues and in behalf of harmony and the public good. His forbearing modesty, his benevolence and his humor are no more luminous than the enduring firmness of his unicameral convictions.

> I confess that there are several parts of the Constitution which I do not at present approve, but I am not sure that I shall never approve them: For, having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions even on important subjects which I once thought right. . . . Most men indeed, as well as most sects in Religion, think themselves in possession of all truth. . . . A certain French lady said, "I don't know how it happens, but I meet with nobody but myself that's always in the right"—*Il n'y a que moi qui a toujours raison.*
>
> In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us. . . . The opinions I have had of its errors I sacrifice for the public good.

Can there be a doubt that, if Franklin as President had felt called upon to state a constitutional theory and programme in opposition to that of Washington and Marshall, he would have known how to give substance to his democratic intent? The result might or might not have been fortunate; but at least we should have escaped the dizzy predicament of living under a government the "form" of which is out of kilter with its dominant "principle"—escaped the vertiginous habit of thinking of equality and liberty, of democracy and the republic, in terms that mean nothing particular.

Some excuse for confusion we may have in the fact that our knowledge of the thought of the Fathers is in a measure defective. The records of the Federal Convention are bare and summary; and

the authors of *The Federalist,* confronted by the rising tide of democracy, became notably tactful and evasive of points controversial. In the entire nation there was only one man who was at once wise enough to expound clearly the basic theory of the Constitution and foolish enough to do so. By speaking out, John Adams wrecked his career in the height of his usefulness and destroyed for over a century his just reputation as one of the greatest of our political thinkers. Even to-day he is rightly known to very few—and those few do not include our most responsible and authoritative historians.

V

Adams thought and spoke of the Senate as the "aristocratic" branch, and of the President with his veto as embodying the "monarchic" principle. The people were to him, as to all true republicans, the real sovereign of the nation, the primary and ultimate source of authority, and he insisted always on the importance of the House of Representatives as "the democratic branch"; but he regarded the people—whether agricultural or industrial, Americans or foreigners, and especially at election time—as peculiarly fallible and inflammable, requiring to be checked by all the wisdom and authority that can be mustered among the relatively small number of those who are educated, who hold a considerable stake in national prosperity and have experience in affairs of the great world. He did not scruple to demand justice for "the few" who have, as against "the many" who have not; he did not scruple to say that in Europe insignia of office and even titles have sensibly contributed to good and stable government, and to urge upon Americans a deference to able leaders and to established authority. In the great achievement of the Declaration of Independence he shared at least equally with Jefferson; but from the first he had no illusions as to that phrase in it which so bemazed its author. In the height of the French Revolution when Sam Adams gave voice to it as Governor of Massachusetts, John sent this sonorous mouthful to his Abigail:

> I hope my old friend will never meet the fate of another preacher of égalité [the Duc d'Orleans]. . . . By the law of nature, all men are men, and not angels—men, and not lions—men and not whales—men and not eagles—that is, they are of the same species; and this is the most that the equality of nature amounts to. But man differs by nature from man, almost as much as

man from beast. The equality of nature is moral and political only, and means that all men are independent. But a physical inequality, an intellectual inequality, of the most serious kind, is established unchangeably by the Author of nature; and *society has a right to establish any other inequalities it may judge necessary for its good.*

Falling amid the yeasty ideas and the political passions of the close of the eighteenth century, all this appeared—or, rather, it was made to appear—absurdly aristocratic and monarchic; and so it has been represented down to our own time by historians otherwise vastly scholarly. The truth, evident when stated, is that it is merely a frank declaration of the basic theory of the framers of our national Constitution—even of Jefferson's theory, so long as it was not blurred by controversies which puzzled his mind and anguished his soul. In the nineteenth-century tide of progress, in brief, the political theory of the Fathers was very largely submerged or swept away. Amid such a seething of waters we shall be fortunate if we do not lose much of what is best in both the ancient thought and the modern spirit.

One trouble seems to be that Adams's theory, the theory that underlies the Constitution, is of a dual nature. All power originates in the people and, in the last resort, returns to them; but, except in the ultimate crisis, it is counterpoised by the wisdom and experience of leading men in the nation. Short of a stern refusal of supplies by the House and the stoppage of all government, the Senate, Supreme Court and Executive, each in its own sphere, "check and balance" the House. As Adams so indiscreetly insisted, ours is a "mixed" constitution, the principle of "democracy" on one hand being compounded with the principles of "aristocracy" and "monarchy" on the other. This duality seems too clear to be misunderstood and in a way has not been misunderstood. But to err is human. A once famous low comedian said complacently, "I know a thing or two" —to which his side partner retorted, "When you remember both of them!" Our subtlest political thinkers have had moments in which they were similarly single-minded.

The very passage in which Adams develops his dual idea most strikingly has been most persistently misunderstood. The Senate was meant to be, among other things, a means of drawing the fangs of the dangerous plutocrat.

The rich, the well-born, and the able, acquire an influence among the people that will soon be too much for simple honesty and plain sense, in an unicameral house of representatives. The most illustrious of them must, therefore, be separated from the mass, and placed by themselves in a senate; this is, to all honest and useful intents, an ostracism. A member of the senate, of immense wealth, the most respected birth, and transcendent abilities, has no influence in the nation in comparison with what he would have in a single representative assembly. When a senate exists, the most powerful man in the state may be safely admitted into the house of representatives, because the people have it in their power to remove him into the senate as soon as his influence becomes dangerous.[8]

This evil which Adams saw in a unicameral legislature was amply illustrated a few years later in France, when self-seeking aristocrats dominated the popular assembly to its ruin. It would doubtless have been illustrated in nineteenth-century America if, during the era in which "big business" and the "trusts" were most influential politically and most conscienceless, our plutocratic Senate had made one body with the House. Predatory wealth would then have been hand-in-glove with needy, ductile politicians. Segregated in the upper chamber, *ostracized,* it found the paths of persistent corruption difficult or impossible; for, being thrown into open and obvious opposition to the representatives of the people, the fight against it became dramatic, triumphant.

When thus ostracized and segregated, however, Adams believed in giving to men of wealth, education and experience in large affairs, numerically a small minority, an equal power as against the representatives of the masses. The "few" were to "balance" the "many." But the balance must be strictly equal. Any attempt to tip the scale in their favor made him rage with full-mouthed vituperation against "the dons, the bashaws, the grandees, the patricians, the nabobs—call them what you please." Even while he discoursed philosophically of certain good effects of rank and title in Europe, his voice was loudest in the land against the hereditary principle and the insignia of the Order of the Cincinnati, though it was loved and led by none other than George Washington.

The volume in which Adams broached these ideas was written in 1786, just before his return from his ministry in England. Published immediately in London, Boston, and Philadelphia, it was in the hands of the Constitutional and ratifying conventions, was

widely read and commented upon, and unquestionably exerted great influence. But the doctrinary democrats laid hold of that unfortunate word, *well-born.* In Virginia, George Mason, himself a tidewater don and grandee but a democrat in doctrine, declaimed against Adams. "The great, the wealthy, the well-born—the *well-born,* Mr. Chairman, that aristocratic idol, that flattering idea, that exotic plant which has lately been imported from the ports of Great Britain, and planted in the luxurious soil of this country!" No hint of the fact that Adams's purpose was not only to give the Senate due influence but also to *ostracize* the dangerous well-born. Mason was an ardent patriot, pure and highly intelligent; but he lacked something of intellectual honesty. How Jefferson seized upon this and other catchwords—"Aristocrat!" "Monocrat!" "Angloman!"—weaned the far clearer-minded Madison from his allegiance to Washington and Hamilton, and founded a new party, is familiar history. John Adams, in the obscurity that followed his fall in 1800, fumed and raged against this gross perversion of his darling "political science." Reconciled with Jefferson in their old age, he expounded, pleaded, almost cajoled. In vain! The Sage of Monticello was sagely unresponsive, *"quadragenis stipendiis emeritis."*

In a very learned volume, *The Political Science of John Adams,* Mr. Correa Moylan Walsh traces, or professes to trace, several periods of development in Adams's theory, from vigorous liberalism at the outbreak of the Revolution of 1776 to a reaction induced by the French Revolution. Students will do well to sift Mr. Walsh's citations in relation to their context. Though Adams increasingly stresses the need of restraints upon the democratic spirit, never for a moment does his constitutional concept cease to be the same rounded whole. It was the times that changed, not John Adams. To the end of his life he was haunted by the tragic irony of those who know two things and manage to remember them. His son became a Democrat and he himself seems to have experienced a certain leaning toward the Jeffersonians—swayed partly by the grotesque blunders of the Federalists under his arch enemy Hamilton, partly by the native liberality of his heart. But to the charge of a "change of Politicks" in 1811, he gave this highly characteristic answer: "The Hyperfederalists are become Jacobins, and the Hyperrepublicans are become Federalists. John Adams remains Semper Idem, both Feder-

alist and Republican in every rational and intelligible Sense of both those words."[9] Good old Semper Idem! Yet it must be admitted that, in spite of the balance of his constitution, joy kicked the beam when, after long years of obloquy and frustration, he became father of a Democratic President of the United States.

John Fiske, though his genius never shone brighter than in *The Critical Period of American History,* quite ignores the fact that Adams dominated the committee that prepared the Massachusetts Constitution of 1780 and wrote most of the text, giving equal credit to Samuel Adams and James Bowdoin; and he makes scanty acknowledgment of the great influence which that Constitution exerted upon the Federal Convention of 1787. Of the antagonism between the unicameral and the bicameral principle, which was basic in the thought of Adams and of the Convention, he gives no adequate conception.

Those who regard Fiske as *vieux jeu* may well glance at our modern historians. I will name a favored few. As Pirate Hook said of the attentions of the crocodile that so ravenously pursued him, "in a way, it's a compliment." Professor J. S. Bassett, who wrote *The Federalist System* for the great series edited by Professor Albert Bushnell Hart, says:

> The French Revolution gave a decided impulse to republicanism in America, and to check this tendency John Adams, then in England, wrote *The Essays of Davila,* a heavy discussion of the principles of government, advocating a government in which the enlightened classes should have the greatest influence.

This is all right enough, except that it was *A Defense of the Constitutions of the United States* which Adams wrote in England; that, the year being 1786, the French Revolution was still in the future; that what Adams advocated for the enlightened classes was not a preponderance but an equality or "balance" of influence; that the work named was written almost a decade later when he was Vice President, and was called *Discourses on* Davila—Davila being not an essayist but a once famous historian whom Professor Bassett seems not to have known about.

Mr. Claude G. Bowers knows about Professors Bassett and Hart. In his brilliant study, *Jefferson and Hamilton,* he repeatedly speaks of *The* Discourses *of* Davila—except when he spells it Davilla. Simi-

larly self-revealing is Professor V. L. Parrington's reference, in *The Colonial Mind,* to Adams's Defense of the *Constitution* of the United States—as if it treated, not the early State constitutions, but the national Constitution of 1787, which was later to be framed on the principles Adams advocated. All these historians ring the familiar changes upon *well-born* and *aristocratic,* upon Adams's trust in titles and his distrust of the American people. In similar vein Professor Bernard Faÿ, whose monograph, *L'Esprit Révolutionnaire en France et aux États Unis,* is a monument of erudition gracefully handled, speaks of Adams and his party as favoring "a moderated aristocracy," "a solid government, by *and for* the better sort"—*les meilleurs.* No one saw more clearly than Adams that no government of a free people can be "solid" unless it is *for* the nation as a whole, giving their due influence to all the component elements. In candor it should be added that it is not easy to read the *Defense* and *Davila,* which, though they are the work of a mind of the highest order, vastly erudite, and abound in telling passages, are chaotic and diffuse. That fact, together with those small matters of chronology and orthography, furnish our historians with an easily acceptable alibi.

VI

It is none the less true that, somehow and somewhere, a high crime has been committed. If the constitutional theory of the Fathers—of Washington and Adams and indeed of Hamilton—rejected the doctrine of *individual equality* it did so from respect for a greater good. What they strove for was *national liberty.* Full evidence as to this distinction, and as to the paramount importance they attached to it, has been available in print for many decades—not to mention the multitude of neglected documents still in manuscript. The fact is something more than a reproach to American historians and biographers. Seldom has the importance of exact and perspicuous scholarship had a more signal demonstration. For well over a century, the Jeffersonian perversion has blended inextricably with the true theory and intent of the Constitutional Fathers, pervading the national mind and determining the deeds of our noblest statesmen.

Lincoln, in the loftiest and most moving of his addresses, repeated

Jefferson's declaration that all men are created equal. Under stress of his great fight against slavery, he assumed that the true function of our leaders is to put into direct effect the will of the people; and he declared that those of the opposite political theory, the theory of the Fathers, intend "the supplanting of the principles of free government and restoring those of classification, caste and legitimacy." Roosevelt was far better grounded in history; long before he was prominent in politics, he had placed himself in the front rank of our biographers and historians of the turning of the eighteenth century. When he wrote *The Winning of the West* he very largely shared the opinion of the early Federalists as to Jefferson's philosophy and his phrases. In his biography of Gouverneur Morris he quotes with approval Morris's epigram that he was "opposed to democracy from a regard to liberty." Yet when Roosevelt found himself in the turmoil of the Progressive battle against the plutocratic corruption of the Republicans, and against the tyranny of their political machine, he took Lincoln and Jefferson as his philosophers and guides, roundly declared his belief in "pure democracy" and broke out the programme of direct primary, initiative, referendum, and recall of judicial decisions. His knowledge of the American people was as wide as that of Lincoln and Washington, and his belief in them as hearty and as pure. But one thing he had still to find out. In this matter of untrammelled democracy the American people do not trust themselves and do trust the Constitution with its balanced distribution of authority and power.

Those who are willing to study the contrast presented by the tragic ends of John Adams and Theodore Roosevelt may learn something of the forces that underlie American history and politics. Adams was the victim of our neglect of solid thinking—of our facile addiction to phrases, to generous but impossible ideals; Roosevelt was the victim of his declared purpose to make those ideals realities of the Constitution. Few tragedies have ever been more deeply ironic. In matters of theory we are the most visionary and phraseled of peoples but in actual conduct the most clear-sighted. We glibly repeat all the catchwords of democracy and popular rule, but in our hearts we are at one with the Fathers.

VII

Curiously enough, the chief sufferer from the long prevalence of democratic dogma is Washington. He does not suffer much in his character, the greatness of which is obvious, nor yet in his fame, which is deeply grounded in his achievements. The loss, which is chiefly our own, is of a clear understanding of his thought and inward purpose. The most thoroughly documented of his biographers—and in many ways the most humanly appreciative—writes that Washington was unable "to act upon or even to understand the theory of another Virginian, that 'all men are created equal.'" Rupert Hughes adds: "Washington had bought too many white men and women to believe them essentially free."[10] Jefferson himself bought men and women—white slaves also, if the term can be applied to indentured servants. As to his "theory," it is pleasant to be assured that one man understands it; but a question may be ventured whether even he understands the theory of Washington.

That is a matter of some difficulty. The Father of his Country made no grandiose claim for his Revolution, content to let it speak for itself. In the face of the Jeffersonian attacks on his Administration he was mainly mute. Chateaubriand wrote after meeting him: "An atmosphere of silence envelops the deeds of Washington," and two of our most formidable historians confess themselves powerless to interpret these deeds unglossed.

Washington sought counsel humbly, weighed it long and patiently. When he had a sure, clear idea to drive home his words were luminous with energy; but, with a mind that moved slowly always, he left to others detailed exposition and forensic debate. If he had any systematic and intricately wrought constitutional theory he made no record of it. We know, however, that he bought the Philadelphia edition of John Adams's *Defense* of the State constitutions, presumably when presiding over the Convention.[11] Of *The Federalist,* which embodies Adams's theory and largely extends it, he wrote words of prophetic might: "When the transient circumstances and fugitive performances, which attended this *crisis,* shall have disappeared, that work will merit the notice of posterity, because in it are candidly and ably discussed the principles of freedom and the topics of government, which will always be interesting to mankind,

so long as they shall be connected in civil society." His sense of its importance is manifest in the fact that he diligently circulated it among the anti-federalist hosts in Virginia.[12] Time and again he gave clear and forcible expression to the dual concept of John Adams—that senate, executive and judiciary are based upon the popular will, but that during the tenure of office, they are bound to oppose all measures, however popular, that their judgment disapproves or the Constitution forbids.[13] It is, however, to Washington's conduct that we must look for a full record of his ideas. A survey of this will show, I think, that, far from despising the American people, he was what they have never ceased to acclaim him, their father—too clear-eyed to ignore their faults, too wise to be glibly indulgent, yet devoted to them unto death.

Of his constitutional ideas we know enough, certainly, to picture what would have happened if he had been privileged to stand with Lincoln at Gettysburg. Both were born in humble homes and were self-educated. Washington acquired more of the manner of the polite world, thanks to his half-brother at Mount Vernon and to his neighbors the aristocratic Fairfaxes; but he would have deeply reverenced, among other things, Lincoln's wider cultivation of the mind. In love of our union they were equal: one spent a whole life in creating what the other met death to preserve. Fear of secession, of the logical outcome of the Revolution of 1800, haunted Washington's last days, as the fact of secession nerved Lincoln to his most valiant endeavor. But one phrase of the great Address might well have caused the man in buff and blue to ponder. It was always his firm intent, as it was the intent of John Adams and Hamilton—even of Jefferson and Madison in 1787—that ours should be a government *for* the whole people but *by* the constituted authorities.

In order to solve our post-war political problems, in order even to understand them, the prime requisite is to understand this distinction as it took form in the minds of the Fathers—not the least able of which, though it moved in a mysterious way, was the mind of Washington. It is a long and leisurely inquiry, leading into bypaths hard to explore. Yet eventually we shall find, I think, that the Father of his Country was possessed by a republican idealism seldom equalled and never surpassed; that throughout his life, from early youth, he felt deeply and urgently expressed the need of national

union; and that, as a sort of by-product of his sufferings from the Continental Congress during the Revolution, he advocated, as early as 1783 or earlier, most or all of the other features of the Constitution of 1787.

BOOK TWO

VITAL ORIGINS

CHAPTER II

THE INWARD WASHINGTON

I

Having observed that an atmosphere of silence enveloped the deeds of Washington, Chateaubriand added: "He is not very impressive to meet." Biographers and historians, confronted by fourteen octavo volumes of his selected *Writings,* four octavo volumes of *Diaries,* and masses of letters and memoranda still in manuscript, have somehow escaped a sense of his taciturnity; but many of late have agreed that he is not very impressive. Mr. W. E. Woodward, the subtitle of whose biography is *The Image and the Man,* thinks nothing of the man. As President, Washington "seems to have been principally a figurehead." Similarly Mr. Claude G. Bowers writes the story of his two administrations as if it were a mere personal combat between Jefferson and Hamilton, giving now and again a sidewipe at "the great man" who happened to be their chief. Our most impressive historians have done nothing to enlighten this view. To McMaster he was "an unknown man." That may be explained by the fact that McMaster gravely misrepresents the authority he cites.* Yet the unusually steady Channing echoes the idea, the very word.

Such attention seems rather obsequious when compared with accounts of Washington's part in the framing and establishing of the Constitution. We learn, indeed, that his fellow members regarded his presence at the Convention as absolutely essential to its success, that he punctually attended meetings of his delegation while it was framing the Virginia plan and every session of the whole body which, under his presidency, developed that plan into the Constitution. But such is the way of figureheads! We are reminded that he seldom voted except to break a tie among the members from his State; that though he came down from the Chair to the floor as

*See beyond, Chapter V.

often as the House went into Committee of the Whole, he spoke only once and then on a minor question after the rest of the Constitution had been agreed upon and written in its final form—by others. For the least hint as to the origin of this great idea or that, modern authorities search Madison's bare records; for its exposition they scan the pages of *The Federalist,* sift every sentence subsequently uttered by those who had been members of the Convention. But has it occurred to any one that the man who bore the brunt of the break-down of the old Constitution during the Revolution had ideas of his own as to the remedy?—or that as President of the United States during the first eight years under the new Constitution, to whom Hamilton was mere Secretary and for five years only, he may have had ways of his own to make his ideas effective? Surely there must be some way of dispelling his octavo-voluminous silence.

To Chateaubriand, Washington was personally unimpressive because he was "so natural and so justly proportioned." If he said little and "acted slowly" it was because "he felt that the liberties of the future were consigned to his keeping and feared lest they suffer harm." For "this hero" was "of a type new to the world." Contrasting him with Alexander, with Cæsar, with Napoleon, the French observer found that he conceived of "the destinies embodied in him," as "not his own" but as "those of his country," and that he did not presume "to gamble with what was not his." He was silent because he had largely ceased to regard his own mind and will, having "blended his life with that of his people."[1] Sophisticated folk may find this highfalutin. Be it so. Our concern is with the inward and unknown Washington.

In some measure the mystery seems to have been the result of that cardinal sin of the new psychology, self-suppression. The idea has its incongruities. All agree that Washington was primarily a man of action. He fired the first shot in one of the world's great wars and was victorious leader of another. All agree that his will was definite and unshakable, that he had in full measure the instinct and the power of command. In the eyes of his fellows he was successful in peace as in war, and their judgment has been confirmed in the sequel of a century. If Alexander and Cæsar and Napoleon were more brilliant, it was in the way of destruction and personal

aggrandizement; labors that proved constructive were mainly performed by those who came after. Washington's purpose throughout was republican and creative; and, from his day to ours, the nation over the birth of which he presided has been an inspiration and a model to free peoples throughout the world. Small opportunity there, our new soul-searchers may say, for the psychology of self-suppression! Yet if we take the trouble to inquire into his inward mind and mood, we may come to agree with Chateaubriand that his achievements were in inverse ratio to his doubts and hesitations. Some natures may gain strength when they give loose rein to the libido; but is there not also a type of genius that runs truest when bridled and curbed?

The situation is not without difficulty. Instead of the clear-cut ideas with which his fellows dealt so ably, we have to do primarily with deeds or the lack of them—not with ideography but with biography. And it is biography of a kind to which biographers themselves are little prone, being by nature and occupation artists in words. Certainly the clever verbalists who have shrunk from the few volumes of John Adams's political science, preferring to echo the crass mendacities of eighteenth-century partisanship, will not be easily led to sift the deeds of Washington and scrutinize his silence for evidence of the inward nature of the man and his precise constitutional ideas.

II

The secret springs of any mature mind are most likely to be revealed by the records of childhood and youth. Washington more than most men appears to have been transformed in later life—by the discipline of unfortunate love, of perilous rebellion and responsible statesmanship. In his boyhood, certainly, we find little of silence and much of explosive self-will. That story of hatchet and cherry-tree may not tell us much of him, but it is thoroughly worthy of attention for what it tells of his first biographer, Weems, who also has been unwisely contemned. In itself, it is so far from being incredible that it might have happened to any child normally active and normally honest. The only thing that rings false is the exuberant morality of a thriftily parsonical book-agent. That in essentials it is true we have some reason to believe. A pottery mug, the glaze

of which an expert dates before 1790 and which bears the inscription "G. W. 1776," shows the hacked cherry-tree and the hatchet with a boyish figure in buff and blue.[2] If, as is said, the mug is of German manufacture, the story was presumably brought home by Hessians who fought in the Revolution. A letter is extant in which Weems (quite superfluously) admits embellishing anecdotes, and even concocting them, in the interest of moral effect; but he had access to sources of anecdote of the highest value. His wife's family, with whom he lived at Dumfries near Mount Vernon, were "closely related" to Washington's mother, were related by marriage to his lifelong friend and family physician, Dr. Craik, and Washington himself was a not infrequent visitor in their house. Upon one of Weems's pamphlets Washington bestowed the very unusual honor of public commendation. It voiced, very eloquently, the plea of the Farewell Address against partisan violence, and may well have been written as result of a conference at Mount Vernon.[3] Before discarding any anecdote, however mealy-mouthed the telling, we shall do well to search the voluminous scriptures.

Of far richer significance as to Washington's self-will and his wise candor is the story which Martha Washington's grandson, George Washington Parke Custis, tells of the boy's struggle with his mother's most valuable horse—a blooded brood stallion of notoriously vicious temper. Stripped of Victorian heroics it is this: Aided by friends, the lad of perhaps fifteen years bridled the unbroken rebel and leaped astride him. The struggle was long and fierce and ended when the stallion fell dead, blood gushing from his nostrils. As in the case of the cherry-tree, Washington owned up to his destructive self-will. But that is scarcely the point. The sin of the early biographers lies less in their fulsome goodness than in their blindness to the biographic and indeed moral value of what they had to tell us. In Washington's own nature there was a spirit no less full-blooded and rebellious than that stallion; and, in the long course of years, he rode it down—all but killed it.

Never was an unlicked cub more tousled than this boy, or more eagerly responsive to the new life about him. The Victorian worship of his mother is fair game for the debunkers—the pioneer among whom, by the way, is the Victorian Weir Mitchell, who reflects somewhat unduly upon Mary.[4] Washington's air of authority, his

instinct of command, he seems to have inherited from her, and—if we except his large, raw nose—little else. She was curiously lacking in delicacy, exasperating her sons with public complaints of poverty quite unfounded. Whenever George's diary records that he called on her, his ledger records that he left behind a goodly sum. Herself little short of illiterate, and left in straitened circumstances at the death of her husband, she allowed her first-born to grow up with the slenderest of educations. Even Weems admits that she was so far from being of the heroic mood that she gave way to crude maternal fears so often as he was called to the post of honor and danger. By birth and marriage she was a gentlewoman; but in the few records of her that remain she appears as a middle-class housewife with few of the more admirable traits of her kind.

In matters of cultivation also there was an enduring conflict in the mind of Washington. The place of father was taken by his half-brother Lawrence, his elder by fourteen years, who had the merchant-planter character of the Washingtons and added new graces. Educated in England, Lawrence took to soldiering when George was eight, and he served as captain with credit in the disastrous assault upon Cartagena. He inherited the major portion of the paternal estate—doubtless because of the Virginian preference for eldest sons but perhaps also for reasons that had to do with the character and attainments of Mary Washington. He married a sister of the presumptive heir of Thomas, Lord Fairfax, whose family were neighbors of Mount Vernon. When George was fifteen, and still living with his mother, Lawrence advised sending him to sea—not as the British midshipman of Weems but as "a common sailor before the mast." The idea seems to have been to make him a merchant captain with favorable connections among Lawrence's friends in England. But Mary's brother caustically advised that he be rather "put apprentice to a tinker," probably meaning a gypsy, and Mary herself doubtless shrank from the hardships and dangers of the sea. Apparently Lawrence came to think better of the boy. For three years George had been eagerly studying to become a surveyor, as we know from an extant exercise written when he was twelve.[5] When he was sixteen, Lawrence took him in at Mount Vernon, making him neighbor and friend of the kinsmen of Lord Fairfax, who was the only nobleman then resident in the colonies.

What that meant in Virginia may be judged by the confession of the Rev. Devereux Jarratt, also born in humble circumstances and in the same year. "We were accustomed to look upon *gentle folk* as being of a superior order. For my part I was quite shy of them and kept off at a humble distance. A periwig in those days was a distinguishing badge of gentlefolk, and when I saw a man riding the road near our house with a wig on it would so alarm my fears and give me such a disagreeable feeling that, I dare say, I would run off as if for my life."[6] If George felt the desire to run off from Lord Fairfax he mastered it valiantly. From the age of sixteen he became a member of the tidewater aristocracy and at twenty was a recognized leader. A modern Englishman has called him "the first gentleman in America—and the last." The statement is half true, which is well above the average of epigrams.

As a boyish officer in the French and Indian wars, he was swayed by all the unruly pride of rank with which he was himself to be so sorely plagued by his officers of the Revolution. Rupert Hughes computes, in his abundantly documented and strenuously realistic biography, that in the brief space of four years the young man resigned seven times.[7] He had risked his life and spent his health in command on the frontier, gaining knowledge that was indispensable; yet on the approach of Braddock's army the Royal Governor of Virginia thought best to permit no colonial officer to hold higher rank than Captain. The bright idea was that this would prevent jealousies. Colonel Washington found himself reduced from active and important command to a mere captaincy. His fellow officers dutifully consented to serve, on the promise that everything possible would be done to secure justice; but Washington, aged twenty-two, resigned in high dudgeon. Not the least of his motives in his ultimate revolt against the mother country was a determination to show that an Englishman in America was as good as any Englishman. Yet even thus early he was learning to master the wild horses. To courteous urging he replied with fine scorn yet with dignity and tact. He added: "My inclinations are strongly bent to arms."[8] No words were ever truer—and more polite. His character, which is the workaday name for fate, brought the harness upon his back as often as great events were afoot. Braddock had a true sense of his worth and secured his service as voluntary aide,

with his old title of Colonel but without commission or pay, thus neatly begging the question of relative rank.

The question of young Washington's explosive will remained. Having vindicated his own dignity, he proceeded to read the British General lessons as to the dignity of his countrymen. Braddock, as Washington wrote to his elderly friend William Fairfax, lacked "that temper and moderation, which should be used by a man of *sense*" and "lost all patience" because the colonial authorities so often broke their agreements as to army supplies. Such shortcomings were already familiar to the young man, and he was destined to be plagued by them sorely. All his life as a soldier he struggled to create an army out of chance medlies of humanity whom slothful and jealous politicians would neither feed and clothe nor pay. His own outcries against his countrymen were hot-tempered and stinging. On the very day of this letter to William Fairfax criticising Braddock, he vented to his brother John his vexation at having to wait two days to collect an escort of eight men, adding sardonically: "But I believe they would not have been more than as many seconds dispersing, if I had been attacked." In an Englander, however, such language was intolerable. To old William Fairfax he wrote: "The General will, I fear, represent us in a light we little deserve; for, instead of blaming the individuals, as he ought, he charges all his disappointments to public supineness, and looks upon the country, I believe, as void of honor and honesty." What follows presents an engaging picture of the British veteran of forty years' active service and his raw colonial aide, whose total of years was now twenty-three. "We have frequent disputes on this head, which are maintained with warmth on both sides, especially on his, who is incapable of arguing without, or giving up any point he asserts, let it be ever so incompatible with reason or common sense."[9] Watson, in his *Annals,* recorded an aged veteran's memory of such a scene. On the very field of battle, Washington, having "put his two thumbs into the armpits of his vest," flatly denounced an order given by his General as futile. Braddock took it with a rumbling sneer: "What think you of this, from a young hand—from a beardless boy!"[10]

The truth is that from the outset Washington had been rather amazed at his General's "complaisance." A month before, he had written to his brother, with a shrewd humor in characterization

which peeps out continually from his early letters: "I hope to please [the General] without ceremonious *attentions* or difficulty; for, I may add, it cannot be done *with them,* as he uses and requires less ceremony than you can easily conceive."[11] From this experience, doubtless, Washington received light as to the dignity and responsibility of command—*a non lucendo.*

Two incidents of these frontier years present the young man in attitudes as different from each other as they are from anything we can associate with the Commander-in-Chief of rebellion and the President of the Republic. One is a tradition handed down in the countryside where he first surveyed land for Lord Fairfax and then, in command of a Falstaffian army, endeavored to protect the settlers from savage butchery. Though not recorded until 1926, it is thoroughly in accord with what we know of the unlicked cub. Having ordered a drink at the bar of a tavern in what is now Martinsburg, West Virginia, he found that he had no money and tendered a coonskin. The change came in rabbitskins, said to have numbered one hundred and fifty-eight. Confronted by this unwieldy heap, and possibly warmed by his liquor, Washington stood treat to all comers until the last rabbit-scut disappeared behind the bar.[12] An eighteenth-century diarist quotes Alexander Hamilton to the effect that Washington had a strong head for liquor—and exercised it daily.[13] One visitor at Mount Vernon found him loquacious after champagne.

In striking contrast with this humorous hail-fellow of the frontier tavern is the colorful splendor which he donned when, as commander of the Virginia forces after Braddock's defeat, he made a journey of state to Boston. He and his two Captains were clad in the blue coats of their colonial uniform. Washington had a white-and-scarlet cloak—his family colors—and a sword-knot of red and gold. The trappings of his horse were of the best London make, stamped with the Washington arms, and his two black servants wore silver-laced hats and were dressed in the Washington white and scarlet.[14] In New York he lingered ten good days, beguiled by dinners and routs and the raree-show of "The Microcosm or World in Miniature"—perhaps also by the charms of Miss Mary Philipse, belle and heiress of the beautiful Manor at Yonkers, whom his New York friends later urged him, though in vain, to besiege matrimonially. Beneath all this color and gaiety there was, however, a

serious purpose not unconnected with the rebellion of twenty years later. A Maryland Captain of fifty men, alleging a royal commission, had refused to take orders from the Colonel in command of the frontier. Washington was now bent on having the Commander-in-Chief, Governor Shirley of Massachusetts, place Colonial officers on a parity with officers commissioned by the King—perhaps on securing for himself the British commission which Braddock had promised him. In this he failed, maugre all his scarlet and blue and gold; but he put an end to the pretensions of the upstart Marylander, and so insured a certain unity of command on the southern frontier.

III

In the quest of his inward nature, the nature that was eventually suppressed, his diaries afford evidence at once luminous and baffling. They are daily jottings; and, though they were not kept in the years of greatest stress, they extend from early boyhood almost to the end. When he was barely sixteen, newly arrived at Mount Vernon and not yet a licensed surveyor,[15] he set forth with a party to "run off" certain of Lord Fairfax's lands beyond the Blue Ridge. In charge of the party was George William Fairfax, son of old William Fairfax, heir presumptive to the title and Washington's senior by eight years. The two were staunch friends always, though their ways parted at the outbreak of the Revolution. An excerpt or two from the diary of 1748 will picture the cub in the first stage of licking.

Tuesday 15th [March, 1748] . . . I not being so good a Woodsman as ye rest of my Company striped myself very orderly and went in to ye Bed as they called it when to my surprize I found it to be nothing but a Little Straw—Matted together without Sheets or anything else but only one thread Bear blanket with double its Weight of Vermin such as Lice, Fleas &c I was glad to get up (as soon as y. Light was carried from us) I put on my Cloths and Lay as my Companions. Had we not been very tired I am sure we should not have slep'd much that night.

Wednesday 16th . . . had a good Dinner prepar'd for us Wine and Rum Punch in Plenty and a good Feather Bed with clean sheets which was a very agreeable regale.

Wednesday 23d . . . we were agreeably surprised at y. sight of thirty odd Indians coming from War with only one scalp. We had some Liquor with us of which we gave them Part it elevating there Spirits put them in y Humour of Dauncing of whom we had a War Daunce there manner of Dauncing is as

follows Viz They clear a Large Circle and make a Great Fire in y. middle then seats themselves around it y. Speaker makes a grand speech telling them in what Manner they are to Daunce after he has finished y. best Dauncer jumps up as one awaked out of a Sleep and runs and Jumps about y. ring in a most comicle Manner he is followed by y. Rest then begins there Musicians to Play ye. Musick is a Pot half [full] of Water with a Deerskin Stretched over it as tight as it can and a goard with some Shott in it to Rattle and a Piece of an horses Tail tied to it to make it look fine y. one keeps Rattling and y. other Drumming all y. while y. others is Dauncing.

Let us not be misled by punctuation, grammar and spelling. With the essence of the art literary they have nothing to do. What really matters is the abounding joy in life, the keen and vivid perception of external realities, the feeling for character and contrast. Undoubtedly when the lad stripped himself "very orderly" for the ravenous broods of the "thread Bear" blanket, he was being hoaxed as a tenderfoot; but it is equally clear that he entered into the spirit of the jest. The description of the Indian dance is quite masterly in its briefly telling detail. The very hypnosis of the savage rite is revealed in the words "jumps up as one awaked out of a sleep." Clearly the boy had the makings of an observer of the picturesque, of a craftsman in words.

As the years pass, his vocabulary expands and his spelling and grammar become approximately correct, but humor and picturesque observation dwindle. The unlicked cub, gambolling joyously, is suppressed, all but crushed out, by the weight of great affairs. When he was twenty, Governor Dinwiddie sent him on a mission to the French Commandant in the Indian country and on his return asked for his diary to lay it before the Virginia Legislature. Washington had a single day to expand and copy his "rough minutes"—twenty-five octavo pages of type; and then, without further correction, the diary was printed and sent to England. It is a very able narrative, intelligently detailed, picturesque and at times highly dramatic; but the young author seems to have been thrown into an agony of self-consciousness. In the "Advertisement" prefixed to it he explains that he did not know it was to be printed until it was on the press, and so "had no Leisure to consult of a new and proper Form to offer it in" or even "to correct or amend the Diction of the old." Thenceforward his "Diction" and his "style" seem to have weighed on his chest like an incubus.

Unaccustomed words he spelled correctly, no doubt with the aid

of a dictionary; but until late in life he struggled in vain to free himself from the vernacular. During the long years of private living between his marriage and the outbreak of the Revolution, the chief entries concern horseback rides to his several plantations. Invariably he "rid" to his Dogue Run plantation, to Muddy Hole and the Neck. All his life the vernacular pursued him. After his eight-years' contact with the college-bred youngsters of his military "family" he seems to have tried to correct it. As a result, he "road" to Muddy Hole, etc. This lasts for several weeks and then, as if in despair of his "Diction," he returns to "rid." In the eyes of his neighbors, and largely in his own eyes, he was a typical fox-hunting squire. Urged to write his "Commentaries" on the Revolution, he refused. The controlling motive, doubtless, was his modesty and his growing reticence, but the reason he alleged was "a consciousness of a defective education." [16]

Not the least of the contradictions, indeed paradoxes, of his character is this: He wrote in his diary daily, with an interest in life that seems unquenchable, and was living at the very vortex of intellectual and political change; yet he recorded virtually nothing of the great men that surrounded him, nothing of the great events that enveloped him, nothing of the great emotions that swayed him. All is superficial—mere matter of fact. During a recess in the Constitutional Convention in the Summer of 1787, he went to Valley Forge with Gouverneur Morris; and, while Morris was whipping the river for trout, he "rid over the old Cantonment of the American army." From the Constitution to Valley Forge—from Valley Forge to the Constitution! He writes no word of what either meant to him personally or to the cause of liberty. But, falling in with "some Farmers at Work," he received and set down at length "the following information with respect to the mode of cultivating Buck Wheat."

If ever an emotion breaks into those pragmatical diaries it is of the trivial sort. Visiting his friend George Fairfax, he heard something of a neighbor with whom he had dealings which "convinced me that he was nothing less than a thorough pacd. Rascall." There is often a touch of sardonic humor. "Here I was informed that Colo. Cocke [a comrade of frontier soldiering] was disgusted at my House, and left because he see an old Negroe there resembling his own Image." The meagreness of the supper at an Alexandria As-

sembly he describes in abhorrent detail, tells how he twitted the hosts of the occasion on their stinginess, and concludes: "I shall therefore distinguish this Ball by the Stile and title of the Bread and Butter Ball." Reading the endless pages, one is constantly reminded of Gilbert Stuart's anecdote. In that composed and quiet face, the painter despaired of finding any expression of the qualities which the whole world knew and might reasonably expect in a portrait—until, on an afternoon walk, the two met a farmer who had tried to overreach Washington in some small trade. At the sight of him, the spirit of the General and the President leaped forth from his features—and so became fixed for posterity.

If historians and biographers have been less fortunate than Gilbert Stuart in seeing what lay beneath the masque it is because they have been less watchful. In proportion as they have struggled free from the sentimental and awe-struck Victorian legend they have tended to the conclusion that Washington was merely pragmatical—void of imagination and meditative mood. So far as this conclusion is based on the diaries, it is a non-sequitur. They were written merely, as Washington notes, "in aid of my memory," which he seems always to have mistrusted. When they record his journeys and public missions or what he called "Observations" and "Memorandums" as to weather, crops and cattle, this is obvious. It is scarcely less so in the case of his record of the arrival and departure of guests at Mount Vernon, which is as full and accurate—and almost as extensive—as a hotel register. One would perfer, of course, a *Journal Intime* in the manner of Amiel, but that was not the intention.

Of a different nature are the multitude of such entries as the following: "Fox huntg. in my own Neck . . . catchd nothing." "Started a Fox and run him four hours. Took the Hounds off at Night." "At home all day at cards—it snowing." It has not been sufficiently observed that these trivial personal entries are mainly confined to a peculiar series of diaries, interleaved in current almanacs, which began in 1768, ten years after his marriage, and was cut short by the Revolution. From the outset they are headed: "Where & How my Time is Spent"; then "With Whom" is added. Why this sudden interest in the details of his personal life—an interest emphasized by the caption under which they are written? One can only collocate the outstanding facts.

The decade just finished—his early married life, free from soldiering and statesmanship—was undoubtedly the happiest of his life. Throughout the eight years of the Revolution and the eight years of his Presidency, the memory of the sports and friends of his Virginia countryside haunted and beckoned to him as fame had never done, though he had been public-spirited and ambitious above most young men. But those years were also destitute of the achievement which had marked his boyhood and which, when he was twenty-one, had made him famous in two hemispheres. At thirty-six, middle age confronted him—the decline of life, as it must have seemed. For years he had carefully balanced in his ledger the income and outgo of money. Had he come to realize that it is important also to keep track of where, how, and with whom time is spent? That is a meditation of some moment. Yet we should have lacked the least hint of it if he had not felt it needful to fix his mind on the record—needful, perhaps, to prompt his own modesty to record facts merely personal. No sooner was he drawn again into important public service than these reminders of the debits and credits of time vanish—and were not resumed in the diaries of his years of world-wide fame.

One recurring entry in the almanac diaries may have a special significance as to his inner life: "At home all day alone," or "Spent the evening in my room." Frequently the word "writing" is added —and indeed he must have spent eons over quill and paper; but quite as frequently it is absent. Assuredly one so conscious of the defects of his education and so deeply interested in public affairs must have done some reading and thinking. That he bought current political pamphlets we know from his ledgers. Several of the famous books of the day are extant with marginal comments in his hand, notably John Adams's *Defense* of the American Constitutions and Adam Smith's *Wealth of Nations*. But it must be admitted that reading does not figure in his record of time spent.

It is very far from following, however, that he was destitute of the life of the spirit. His mental processes may not have been closely articulated; certainly he had only moderate skill in phrasing them. Yet a close reading of the record will show, I think, that few men of action have been more given to sessions of silent thought. Thus, when the army threatened sedition at Newburgh, in 1783, he wrote

in a letter that for months he had "meditated" on the problem of making it subordinate still to the civil authority, to Congress. When the Constitutional Convention ended, he recorded in his diary: "I returned to my lodgings . . . and retired to meditate on the momentous w[or]k which had been executed." What would we not give for a record of that meditation!

It was not in his nature to make it. To the perfect diarist two things are needful, a sense of the importance of one's own doings and thinkings, and a keen eye for the doings and thinkings of others. The two are in reality one, and that is closely allied at all points to vanity—which is one reason why John Adams excelled as a diarist. For all his irritable sensitiveness and his surging pride, Washington was the least vain of the Fathers—quite unduly humble with regard to his ability as thinker and writer. His biographers have mainly taken him at his own valuation, ignoring the abundant record of his deeds and his chance utterances—which, when sifted and assembled, reveal a masterly grasp of all great problems in statesmanship and an imagination ceaselessly occupied with visions of the future of the American nation.

IV

In some measure his failure as a diarist may be attributable to the very intensity of his emotional life. Not every nature is subdued by the rituals of expression. Those that are, in all probability, are essentially not passional but artistic. To give a loose rein to a temperament truly passional is to redouble rather than to allay the explosive force. Washington, certainly, never ceased in his effort to ride down the wild horses; and the few instances in which he failed are evidence enough that in doing so he was wise.

The following letter is one of them. The Colonel Muse to whom it is addressed had been a fellow officer of his elder brother Lawrence in the Cartagena campaign, had instructed the boy George in the art military and had served with him at Fort Necessity in 1754. But he had there shown the white feather and was now (1774) rudely inappreciative of Washington's efforts to secure bounty lands for his former fellow soldiers. Sparks obscured the letter in a footnote and, as usual, obliterated its most offensive passages. Ford copied Sparks verbatim—without credit or discredit to Sparks. The

full text is of especial value as showing that in the very explosion of his petulance Washington was just to liberality and willing to throw out a comradely suggestion. Even more characteristic than the abusive rage is the steady return of self-mastery.

SIR,—Your impertinent letter of the 24th ulto., was delivered to me yesterday by Mr. Smith.—As I am not accustomed to receive such from any man, nor would have taken the same language from you personally, without letting you feel some marks of my resentment; I would advise you to be cautious in writing me a second of the same tenour; for though I understand you were drunk when you did it, yet give me leave to tell you, that drunkenness is no excuse for rudeness; and that, but for your stupidity and sottishness, you might have known, by attending to the public Gazettes, (particularly Rind's of the 14th of January last) that you had your full quantity of ten thousand acres of land allowed you; that is, 9073 acres in the great tract of 51,302 acres, and the remainder in the small tract of 927 acres; whilst I wanted near 500 of my quantity, Dr. Craik 300 of his, and almost every other claimant little or much of theirs.—But suppose you had really fallen short 73 acres of your 10,000, do you think your superior merit entitles you to greater indulgence than others? or, that I was to make it good to you if it did? when it was at the option of the Government and Council to have allowed you but 500 acres in the whole, if they had been inclined to do so. If either of these should happen to be your opinion, I am well convinced you will stand singular in it; and all my concern is that I ever engaged myself in behalf of so ungrateful and dirty a fellow as you are.—But you may still stand in need of my assistance, as I can inform you that your affairs, in respect to these lands, do not stand upon so solid a basis as you may imagine, and this you may take by way of hint; as your coming in for *any,* much less a full share, may still be a disputed point, by a gentleman who is not in this country at this time and who is exceedingly dissatisfied therewith.—I wrote to you a few days ago concerning the other distribution, proposing an easy method of dividing our lands; but since I find in what temper you are, I am sorry I took the trouble of mentioning the Land, or your name in a letter, as I do not think you merit the least assistance from

G. WASHINGTON.

29 January, 1774.[17]

That Washington at forty-two could address such language to an old and unfortunate comrade is in itself a biographic fact of moment. The light of character, as the greatest of portrait painters knew, is best seen against its appropriate shadow. But the letter is chiefly significant in its bearing upon one of the unsolved problems of Washington's life.

Weems records that in 1754, when he was twenty-two, he "became warm" in an election dispute with a little man named Payne and "said something that offended" him; "whereupon the little gentleman, who, though a cub in *size,* was the old lion in heart, raised his

sturdy hickory, and, at a single blow, brought our hero to the ground." Washington, it appears, made no resistance, even quelling fellow soldiers who swarmed to avenge him; and on the following day, over a decanter of wine, he apologized for what he had said. Weems makes this the text for a preachment against duelling which might drive a normal man to coffee and pistols for two.

Washington Irving ignored the story, properly enough in the absence of evidence other than Weems's. Bishop Meade recorded local traditions which corroborate Weems and proceeded to moralize with dignity and truth on the iniquity of duelling.[18] When Lodge wrote his biography in 1889 this evidence was in print; yet, while approving the letter to Colonel Muse (as he could scarcely have done if the full text had been before him) he said of the Payne anecdote: "That Washington . . . allowed himself to be knocked down in the presence of his soldiers, and thereupon begged his assailant's pardon for having spoken roughly to him, [is a story] so silly and so foolishly impossible that [it does not] deserve an instant's consideration." Rupert Hughes rather incautiously accepts Bishop Meade's evidence as conclusive, and he adds an inference even more unwary—that, as result of his recent defeat at Fort Necessity, "Washington was crushed into such meekness that . . . instead of retaliating or challenging the fellow to a duel, he apologized."

Here we shall find an illustration of the importance of chronology. In 1754 Washington was, as Hughes notes, under the cloud of a capitulation reported as disgraceful. To return a soft answer would have been extremely embarrassing, perhaps beyond even his moral courage. A year later, the laurels won on Braddock's field were green on his brow. In the eyes of the judicious, an act of magnanimity would appear as such. Fortunately there is contemporary evidence of the first order which places the election brawl in 1755—and, incidentally, clears up another problem, that of Washington's entry into political life. On December 23 of that year, his enthusiastic comrade, Major Adam Stephen, wrote his absent chief from Fort Cumberland, where their regiment was stationed.

Dr. Sir

Such a Spirit of Revenge and Indignation prevailed here, upon hearing you were insulted at the Fairfax Election, that we all were ready and violent to run and tear Your Enemies to pieces. As I imagine myself interested in all that

Concerns you, I cannot forbear telling you that it would have been far better to have acquainted me with your Intention of Standing Candidate for Frederick, my acquaintance there is very general, and I would have touched on the tender part So gently, that with a Week's Notice, I am perfectly Sure you would have gone Unanimously, in the mean time I think your Poll was not despicable, as the people were a stranger to your purpose, Untill the Election began . . .[19]

According to Hughes, this "strongly indicates" that, on first standing for the Virginia House of Burgesses, Washington "was not only defeated but insulted." We are to believe that Adam Stephen was so moved to "revenge" by a mere political mischance, and by one in which "your Poll was not despicable," as to be "ready and violent to run and tear Your Enemies to pieces." But it will be observed that two elections are here mentioned—one in Fairfax, home county of Washington and George Fairfax, the other in Frederick, the county beyond the Blue Ridge where Washington's regiment was stationed and where Adam Stephen speaks of him as a candidate. What the letter "indicates" is that the insult occurred in Fairfax County and the political defeat in Frederick. A new paragraph after the first sentence would make this clear.

Further light is thrown on the situation by a letter which Washington wrote to his brother John in the preceding May (1755). He remarks that a Mr. Alexander, doubtless of the family from whom Alexandria was named, "intends to decline serving" in the House of Burgesses, and he asks John to "come at Colo. Fairfax's intentions, and let me know whether he proposes to offer himself as a candidate." He adds that Fairfax's brother-in-law, John Carlyle, had said "in a bantering way," that "he did not know but they might send me, when I might know nothing of the matter, from one or t'other of the counties." If George Fairfax had stood for Fairfax County in 1754, the year to which Weems assigns the anecdote, he must have been defeated; and, now that he might be elected (as he actually was) his neighbor and friend would scarcely have been making eyes at the constituency. In point of fact, one Gerrard Alexander, doubtless the "Mr. Alexander" to whom Washington referred, represented Fairfax County for the term of 1752–5. George William Fairfax represented Frederick during those years and Fairfax during the following term. There was no election in 1754, that of 1755 being the first in three years.[20]

The situation that thus emerges is quite simple and natural. Finding that his friend was to run in Fairfax, Washington either transferred his candidacy to Frederick or—what is more probable—his backers, "when he might know nothing of the matter," nominated him for "t'other" county. In either case he let the office seek the man, not even informing his comrade Stephen of his candidacy, and went to Fairfax to work for his friend.

As for Parson Weems, he himself is authority for the statement that in the interest of moral and dramatic effect he dealt freely with matters of fact. His error of a year was doubtless unintentional; but in his eyes there was a reason enough for transporting Washington's regiment across the Blue Ridge, and with it the murderous rage of such as Adam Stephen. As to the basic fact, this story stands on even better ground than that of the cherry-tree. Warmed by election cheer, Washington's petulant violence swung loose for a moment—and so did the hickory stick of doughty William Payne. And, night having brought counsel, Washington decided not to challenge the little man but to make him suitable amends. The two became friends, and in after-life the soldier who was six-foot-three smilingly introduced little Payne to Mrs. Washington as the man who had knocked him down. During the Revolution he tried in vain to dissuade Lafayette from a duel. If he had lived, he might well have dissuaded Hamilton from exposing himself to Aaron Burr's pistol. Now, thanks to Bishop Meade, to the long-neglected rodomontade of Adam Stephen, and to a small matter of chronology, we are able to trace Washington's striving for moral and spiritual self-command far back into his crude and turbulent youth. During that night between the election brawl and his apology, we may be sure, his meditation was intense, for only through the sessions of silent thought does pride such as his rise to such altitudes.

"The tender part" to which Adam Stephen refers will afford considerable balm to those who find it hard to live always on the heights of moral and spiritual control, and is indeed essential to a full-length portrait, properly shadowed, of Washington's youth. As military commander he had alienated local horse-dealers who tried to cheat the government, alienated tavern-keepers bent on selling liquor to his men; he was strictly efficient, moderately dry—and defeated at the polls. But as a politician on the occasion of his second

candidacy (1758), he loosened up and was very wet indeed—and triumphant—supplying rum punch, wine, etc., at the rate of a quart and a half each for a total of 794 voters. Still he retained a sense of responsibility. Confronted by the staggering bill, he wrote: "I hope no exception was taken to any that voted against me, but that all were alike treated, and all had enough. It is what I much desired." Those who are familiar with the manners and morals of contemporary elections in England, will find that young Washington's impartiality in treating ranked him among the reformers.[21] This situation is very humanly and amusingly treated by R. T. Barton in *The Collections of the Virginia Historical Society* and by Hughes.

A nature so quick and passionate may be broken to bit and bridle but is scarcely to be extinguished.

E'en in our ashes live their wonted fires.

Over against Gilbert Stuart's trivial anecdote it is well to set that of President Washington's rage on hearing the news of St. Clair's defeat by the Indians in 1791. We have two accounts. They are second-hand, but both are based on the report of Tobias Lear who was Washington's secretary and sole witness of the scene. In essentials they are identical. The American army had been surprised in its camp and cut to pieces—and Washington, mindful of the harsh lesson of his youthful campaign with Braddock, had especially instructed St. Clair to guard against surprises. The news came when he was at dinner with a considerable company. He left the table, read the despatch and returned. Custis writes: "No change was perceptible in his countenance." Richard Rush adds that when the company passed to the drawing-room the President "spoke courteously to every lady in the room, as was his custom." When he was alone with Lear, he still struggled for self-control—"walked backward and forward for some minutes" without speaking, and with no change from the calm in his face. But presently Lear "perceived emotion." "This rising in him, he broke out suddenly" in bitter lamentations. In a renewed effort at self-control, he "walked about the room several times, agitated but saying nothing." Then "he stopped short and stood still a few seconds, when his wrath became terrible." Custis says that, "in a paroxysm of anguish," he struck his fists against his forehead "with fearful force," Rush that "more

than once he threw up his hands as he hurled imprecations upon St. Clair." As we should say, he cursed and swore. "O God, God!" are the words which Rush attributes to him. Then he sat down. "He seemed conscious of his passion and uncomfortable. He was silent. . . . At length he said, in an altered voice, 'This must not go beyond this room.'" After another and longer pause, "in a tone quite low," he said "General St. Clair shall have full justice." In point of fact, St. Clair had that and more—sympathy for his "misfortune" and a renewal of Washington's friendship.[22]

Such emotions, such sudden and self-willed transitions to contrary moods, far transcend the literary possibilities of a diary. In public debate also, the man who is subject to them is well advised to keep silent. But the fact that Washington was such a man explains many things. It explains his love of tragic acting—evident in ledger items for tickets bought and also in frequent quotations from Addison's *Cato* and from the plays of Shakespeare, especially *Hamlet,* which gleam from his workaday correspondence. Above everything it explains the influence he exerted from the first over an entire people —who, unimpressed by the most intellectual discourse, somehow know when silence is golden.

To his nearer associates he seems to have been rather baffling. Gouverneur Morris, whose relations with him were more friendly and cordial than those of any of his comrades in public life except Lafayette, once made a bet that he could clap him on the shoulder and, as we say, get away with it. Morris paid for the dinner. The look which Washington turned upon him froze the entire assembly. Yet there was so little of self in this passionate dignity that, in all questions of military strategy or of statesmanship, he listened to every word of counsel and was self-effacing to a fault in his regard for the majority opinion. It was not only "the brace of Adamses," and the Conway cabal that reprobated his "indecision." All the ablest of his intimate associates—Hamilton, Jefferson, Steuben, Pickering, Joseph Reed, even his warm friend and favorite Major General, Nathanael Greene—thought lightly at times of his abilities. "Why, the General does want decision," Pickering quotes Greene as saying; "For my part, I decide in a moment." The remark explains the inspired brilliance of Greene's southern campaign—but also his two fatal blunders, one military and the other political. Yet

there was always an end to Washington's doubts. After he decided that the moment for action had come, as at Trenton and Princeton and Monmouth, his vigor was volcanic; after he decided on a course of state policy, as in the cases of Genêt and Jay's treaty, his resolution was unshakable.

V

Thanks to such repressions, such silences, his conduct was clear and simple always; but we shall do well to note that his inward nature, as seen in the records of his youth and in stray glimpses into the passions of maturity, was at once richer and more complicated than that of any of the brilliant and versatile group with whom he surrounded himself. He was primarily not cerebral but instinctive. Men who are able to subject their emotions to critical analysis and intelligent control achieve a certain consistency of conduct, even harmony of impulse. Such mastery as Washington asserted over his passions was the mastery of will. The result was twofold—a fulness of nature, and an array of inward contradictions which many or most of us (for better or for worse) outgrow with childhood. None of his fellows was so unlearned or so wise. None had greater resources in primitive craft and cunning and none was more scrupulously honest. None was so robust in pride or so deeply and sincerely humble. None had sterner resentments, or was so magnanimous toward his enemies. None was so reckless in personal bravery or so cautious where the fate of the nation was at stake. None had so lofty a power of command or such subservience to legitimate authority. None devoted himself to the service of his country so ardently and so prominently, and none was so nearly destitute of personal ambition. None was outwardly so placid, even cold, or inwardly so emotional. Yet, viewed in perspective, this nature in which all the vast primeval forces struggled ceaselessly for sway was so harmonious and so clear that the rank and file of his ragged army, the 'prentice and the plowboy, understood and revered it. It is only his intimates, including biographers, who have failed him.

There was a loss, no doubt, when explosive loquacity gave way to silence, when the turbulent rages of that glorious boy were tamed. In the exultation of his first fight on the frontier he wrote to his brother John: "I have heard the bullets whistle, and, believe me, there is something charming in the sound." Fortunately or un-

fortunately, the letter immediately found its way into print.[23] The gossiping Horace Walpole described it as "rodomontade" and called young Washington "a brave braggart." George II had a truer sense of it, remarking that Washington "would not say so if he had been used to hear many" bullets. Washington did not say so, in fact, when, at Braddock's Defeat, four tore through his coat and two horses were shot under him—nor yet at the retreat from Manhattan when, in an agony of despair at the cowardice of his raw troops and their officers, he sought death from a British musket until his comrades dragged him away.

An acquaintance once asked him if it was true that he found charm in the whistling of bullets. "If I said so," he answered, "it was when I was young."[24] Yet the silent soldier of the Revolution whose destinies were not his own may well have spoken "quietly," as Washington Irving surmised, thinking backward on what his youth had been.

CHAPTER III

THE REPUBLIC AND SALLY FAIRFAX

I

In 1877, two love letters written by Washington to Mrs. George William Fairfax were published for the first time and caused a sensation which, though masked for decades by biographers, has steadily increased. They had been found among Mrs. Fairfax's papers upon her death in England in 1811, and her kinsfolk in America had treasured them through two generations in the awed silence of Victorian propriety.

The Fairfaxes were Washington's nearest friends until shortly before the Revolution, their house, Belvoir, being five miles down the Potomac from Mount Vernon and in full view of it. Though George Fairfax was eight years older, the two men had been intimate, surveying, electioneering and fox-hunting together, from the time Washington, aged sixteen, came to live with his brother Lawrence. There is abundant evidence, notably in Washington's diaries, that Mrs. Fairfax and Mrs. Washington were neighborly always, dining and visiting with each other, and were the first to offer sympathy in illness and bereavement. The letters were written in 1758, when Washington, aged twenty-six, was engaged to Martha Custis. Though they are reticently worded and indeed seem intentionally vague and obscure, they are now generally accepted as showing that he was passionately in love with Mrs. Fairfax.[1]

One of them speaks of "the recollection of a thousand tender passages that I could wish to obliterate, till I am bid to revive them" —and what follows, as we shall see, is proof enough that these passages were not with Martha. In two later letters, one of them written only nineteen months before he died, he declared that the moments he had spent in her company were "the happiest in my life." We have here, obviously, something very different from the legend of idyllic love which the Victorians wove about the lives of George and Martha Washington. Whether it is in the way of scandal de-

pends upon the nature of the "thousand tender passages." That question has obsessed recent biographers.

Until times quite recent, the inquiry was beset with peculiar difficulty. Ever since the outset of the Revolution, scandalous reports have been current. So far as they concerned Washington's political conduct, he effectually denounced them upon retiring from the presidency, but charges of private immorality he disdained. Many of these are still widely believed and are said to be confirmed by extant letters in his own hand—which, however, remain perdue. If those letters exist, they are presumably forgeries of British war propaganda or of later political partisanship, the embittered license of which frequently took that precise form. But even though we could prove them forgeries, there was little to be gained; for one bit of evidence, of the most damaging, was accepted by the most scrupulous. In a letter from Benjamin Harrison to Washington, intercepted by the British and published in 1775, occurred this passage: "As I was in the pleasing task of writing to you, a little noise occasioned me to turn my head around, and who should appear but pretty little Kate, the washer-woman's daughter over the way clean, trim and rosy as the morning. I snatched the golden, glorious opportunity, and, but for the cursed antidote of love, Sukey, I had fitted her for my general against his return." Thus we find the forebear of two Presidents busy at the trade of Sir Pandarus of Troy in behalf of the Father of his Country. The letter was part of a flood of British propaganda, the rest of which was soon branded as false. Yet Paul Leicester Ford waved aside the two letters to Sally Fairfax, declaring: "The evidence has not been produced" and quoted the Harrison letter as relevant to his portrait of "the true George Washington." Small wonder that a modern biographer does likewise, licking the lips of scandal.[2]

Fortunately the original of Harrison's letter has been discovered, in the British archives. It does not contain the passage about the washerwoman's daughter, which thus takes its place among the manifold forgeries. Straining at a gnat, the Victorians gulped a camel. Mr. John C. Fitzpatrick has disposed of the whole mass of such scandal in a very able article in *Scribner's Magazine*. This leaves the testimony of Washington's neighbors and friends unimpaired. Patriots and Tories alike, they were unanimous. Thus

Joseph Reed, his favorite aide and intimate friend, described reports of his "immorality of life" as "so nearly bordering frenzy that I can pity the wretches [who circulate them] rather than despise them." The Reverend Jonathan Boucher, who knew Washington long and well, yet as a Church-of-England Tory abhorred the rebel general, admitted that "in his moral character he is regular." What the last word meant may best be seen in Richard Parkinson's description of Washington's financial conduct as no less "regular" in small affairs than in great. The usage survives in the modern slang phrase, "a regular fellow." As employed in the eighteenth century it meant scrupulously exact, precisely correct, perfect.[3]

The way is thus cleared for a consideration of the "thousand tender passages." Interesting from the point of view of biography, the question demands all diligence in research because of its historic importance. Many strands of evidence connect Sally Fairfax with Washington's stanch liberalism. The milieu of this love story is that of his earliest, clearest and most unswerving constitutional concepts, and is of the highest importance as giving psychologic color and vitality to his ideal of the Republic.

II

Sally Fairfax, born Sally Cary, came as bride to Belvoir, the residence of her husband's widowed father, William Fairfax, in December, 1748, at the age of eighteen. Washington probably first heard of her the preceding Spring, when he and George Fairfax, aged sixteen and twenty-four, were surveying in the wilderness. As a boy his heart was inflammable as his temper, and the consequences were quite as awkward—at least as they appear in his youthful poems and letters. He was over heels in calf love with his "Low Land Beauty," sometimes identified with the future mother of Lighthorse Harry Lee and grandmother of Robert E. Lee. Boys do not easily talk of love to boys; yet to "eleviate" his "sorrows" and bury them "in the grave of oblivion," he wrote of this Beauty to a "Dear Friend Robin" and to a "Dear Friend John." The two letters are almost identically sentimental, identically incoherent and ungrammatical; but one of them records a fact of importance, that he was living not at Mount Vernon but at Belvoir. In the much neglected *Papers of Washington* is a letter in which one Buckner Stith amiably describes

to the Victor of the Revolution his appearance at this time—"a sound looking, modest, large boned young man."[4] May we not be permitted to guess that he grievingly bared his bleeding bosom also to the young matron of eighteen—two whole years his senior? It would not have been the first romance to begin in this manner.

Sally was of the highest type of Virginia womanhood, far as the poles removed from the ladies of the back country in which he had been reared. In her portrait she is slender and lithe, with salient, quizzical, aristocratic features—cerebral rather than passional. In a society the prevailing diversions of which were fox-hunting and assembly balls, her girlhood had been surrounded by an atmosphere of polite literature and public affairs. What is left of her father's library bespeaks an intelligence as refined as it was inclusive.[5] At Belvoir she took part in private theatricals no less portentous than that high tragedy of republican virtue, Addison's *Cato*. Slender as is Washington's correspondence with her it speaks eloquently of her lively social interests, her provocative feminine charm, her womanly circumspection and reserve. The graces of manner that had been strange to the young man found in her a model and no doubt an inspiration. Very largely he must have owed to Sally Cary Fairfax the delicacy and tact of his mature manner, his high reverence for cultivation of the mind. Thus far no influence could have been better for this unlicked cub of glorious possibilities.

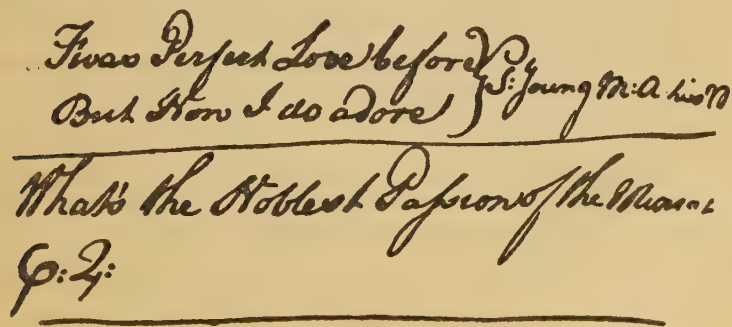
Sally's relations with her husband were harmonious to the outward view and inwardly, so far as we have evidence, quite happy according to the standards of the time. We shall do well, however, to take full account of those standards. It has been asserted that theirs was a marriage of convenience.[6] That may easily be granted. In eighteenth-century Virginia as in Europe, such marriages were the rule. Romantic love arrived much later—with the novels of Scott. Sally was of the most distinguished family and fortune, and George Fairfax was heir presumptive to the title and the huge estate of the only English nobleman resident in America. That was more than enough. A letter of the young bridegroom's to an English kinsman in which he announces his marriage has been denounced as coldly formal. That is doubtless an error of the romantic point of view. But what shall we say of the following passage, hitherto unnoted—the only personal touch in a letter of 1757 written

during a long and trying absence in England? "Permit me, Sally, to advise a steady and constant application to those things directed for your welfare, which may afford me the greatest satisfaction upon my arrival."[7] If the *things directed* were matters of ordinary conduct, the appeal to his *satisfaction upon arrival* savors of pedagogy, not to say cold priggishness, even in an eighteenth-century husband. But in all other records of George Fairfax we find a gentleman loyal and notably liberal.

If the allusion was to Washington, the words are quite in character, for here the welfare of both husband and wife was in jeopardy. The young soldier was now twenty-five, and his feeling for Sally was, as we shall see, already known to the Fairfax connection and probably to others in the countryside. A year later, he himself is said to have made allusion to it. Eloquent testimony of Sally's feeling for him resides in the fact that she treasured his two passionate letters, written a year later yet long before his great fame, through fifteen years of intimacy with the couple at Mount Vernon and thirty-eight years of her subsequent life in England. Young George was six feet two or three, "the handsomest figure on horseback in America"; he was a fearless and dashing soldier already prominent in affairs of war and state, and of that dignity and command peculiarly dangerous to fine gentlewomen.

III

By what degrees he had fallen in love with her we can only guess, but the material for conjecture is abundant. Two jottings in the back pages of his boyish diary of 1748—the year Sally came to Belvoir as bride—deserve a scrutiny not yet accorded them. That they were intended to be cryptic is evident enough, especially in the curious characters (SF?) appended to the second.



Disregarding the flourish of the final *e* in *before,* the first character beyond the bracket is, if anything, an *S*. Whoever "young M:A:" may have been, he was in possession of an adorable something denoted by *W*. And schoolboys have often exercised new Latin and new friendship by calling each other Meus Amicus. *Sally young Meus Amicus his Wife* is only conjecture. But there can be no question that something has happened to such love as young Washington had had for his Lowland Beauty. It has changed to adoration. And the subjoined query as to the noblest passion of the mind suggests that he knew the difference. If the conjecture has any correspondence with truth, it shows that Washington's love came upon him in the age of innocence and was tinged from the first with the idealism which, as we shall see, persisted throughout his life.

After four years of propinquity with Sally Fairfax, we find Washington, aged twenty, writing to William Fauntleroy that he purposes "to wait on Miss Betsy in hopes of a revocation of her former cruel sentence." He enclosed a letter to the young lady of which I have found no trace. Much has been said of the versatility of Washington's passions and of the frequency with which the objects of them rebuffed him. It is true that, when very young, he scribbled prose and verse of compliment to several; and he had an eye and a heart for youthful beauty that never grew dim and cold. But this Fauntleroy affair is the only one in which we have evidence of his rejection as a suitor. In the light of his very eighteenth-century courting of Martha Custis, it cannot even be taken as proof that his heart was deeply engaged. Having lately fallen heir to Mount Vernon, his household was sorely in need of a mistress—as it still was when he married Martha. And in one situation the familiar adage may well be disregarded. When an old love can only lead to dishonor, the way of escape lies in a new one. The most we are warranted in deducing is that he intended marriage and thought well of Miss Fauntleroy. She was of excellent family and a great belle—and, as we must remember always, the romantic ban upon marriages of convenience was as yet undreamed of. It is possible that she had heard whisperings as to Sally Fairfax and it is certain that she found another suitor more attractive. For in the Washington of twenty, young ladies were likely to see huge hands and feet, a

recently pock-marked visage and a rustic diffidence, rather than that strange mingling of self-effacement and heroic valor, of enduring patience and boldly constructive imagination, which was later to astound the world.

Meantime the cub was being licked, and licking himself, into something like maturity. The year after his rejection by Miss Fauntleroy, he went on his perilous, epoch-making diplomatic mission into the wilderness, and the diary report of his reception by the French commandant was the sensation of the day in England as in America. At the end of the pamphlet we find: "On the 11th (January, 1754) I got to Belvoir: where I stopped one Day to take necessary Rest." The physical man, surely, could have rested quite as well five miles short of Belvoir, at Mount Vernon. In the following Summer, when neighboring colonies failed in the matter of reinforcements and he returned from Fort Necessity under a cloud of defeat and misrepresentation, he may well have put up at Belvoir and received the sympathy which is said to be kindred to what he felt, though a poor relation. A year later, 1755, when the army of His Britannic Majesty, coated in scarlet and glittering, was ambushed and cut to pieces in the far wilderness, the young soldier in Colonial blue performed prodigies of valor—and this time, as we shall see, he received especial attention from Sally. On such occasions the sternest moralist could scarcely object to a tender passage or two.

No trace of them is to be found, however, in his earlier letters to her—quite the contrary. The glimpses we catch of Sally are rare and fleeting; but, while she seems always to have a keen interest in the young soldier as he rose steadily to fame, she is careful always to hedge about her conduct with the strictest propriety. Her evasions were so pointed that they wounded him deeply, at once in his pride and in his humility. Shortly after he left Mount Vernon to join Braddock in 1755, he wrote in a very formal vein, his purpose being "to engage your corrispondance"—but the letter is marked "never sent." A fortnight later he attempted a different vein, gaily bantering her on the superior social address of a lady in Alexandria who had sent the gourmand Braddock "delicious cake and potted woodcock." This, together with a letter to Sally's sister-in-law, Sarah Fairfax Carlyle, was to be enclosed in a letter to his favorite brother,

John, but it "was not sent." Obviously his courage in the matter was intermittent. Three weeks later we come to this revealing document, written at Fort Cumberland, June 7, 1755, on the eve of his departure with Braddock for the wilderness:—[8]

DEAR MADAM:

When I had the happiness to see you last you expressed an inclination to be inform'd of my safe arrival in Camp with the Charge that was intrusted to my care [a chest of money for the army], But at the same time desir'd it might be communicated in a Letter to somebody of your acquaintance. This I took as a gentle rebuke and a polite manner of forbidding my corrispondence with you: and conceive this opinion is not illy founded when I reflect that I have hitherto found it impracticable to engage one moment of your attention. If I am right in this, I hope you will excuse the present presumption and lay the imputation to elateness at my successful arrival. If, on the contrary, these are fearful apprehensions only, how easy is it to remove my suspicions, enliven my spirits, and make me happier than the day is long, by honoring me with a corrispondance, which you did once partly promise to do. Please make my Compliments to Miss Hannah and to Mr. Bryan [Fairfax], to whom I shall do myself the pleasure of writing so soon as I hear he is return'd from Westmoreland.

I am, Madam,

Y'r most obedt & Hble. Servt.

G. WASHINGTON.

This was humble enough, but he got no answer. After three weeks, writing from the depths of the wilderness (June 28), he sent a message through his brother John at Mount Vernon, in a vein of sardonic pride and resentment, obviously aimed at the forbidding Sally: "You may thank my friends for the letters I have received from them, which, tell them, has not been *one* from *any mortal* since I left Fairfax. . . . It is a specimen of their regard and kindness which I should endeavor to acknowledge and thank them for, was I able and *suffered to write*." The italics are his own. He would scarcely have written this if John had not been in his secret. Eleven days later he courted death at Braddock's Defeat—with about the same success as he had courted Sally's "corrispondance." On his return, Achilles sulked in his tent, proudly refusing an invitation to Belvoir, and instead invited the Belvoir household to come to his bachelor home. This happened to be impossible for the lack of horses, and old William Fairfax wrote to say so. Sally jotted a postscript, in a hand primly rectangular and otherwise quite individual

yet almost as precise and neatly spaced as a copybook. It is the only note to him that remains.

> DEAR SIR After thanking Heaven for your safe return I must accuse you of great unkindness in refusing us the pleasure of seeing you this night I do assure you nothing but our being satisfied that our company would be dissagreable should prevent us from trying if our legs would not carry us to Mount Virnon this Night, but if you will not come to us to morrow Morning very early we shall be at Mount Virnon

Lively interest could not blend more subtly with an amused sense of the situation, nor be more discreetly expressed. Even so, Sally made the note a sort of round robin: subjoined to her signature are the signatures of two ladies of her house-party.[9] The young hero's haughty aloofness was short-lived. On August 21, as the address of a letter from George Mason tells us, he was staying at Belvoir.[10]

IV

In the Winter of 1757–8, the data as to which takes on vivid colors so soon as assembled, there was room and to spare for tender passages. Though Washington had vast muscular strength and endurance, his constitution was far from robust. His brother Lawrence had died of consumption; and as early as 1752, in his letter to William Fauntleroy, George excused a tardiness in attendance upon Miss Betsy on the score of "a violent pleurisie, which has reduced me very low." Now, in the Summer of 1757, he contracted a camp dysentery which sorely enfeebled him, yet could not be persuaded to quit active service and so brought on "Stitches and violent Pleuritic Pains." By November he was "hardly able to walk" and was prevailed upon, though very reluctantly, to go home on sick leave. His good comrade, Captain Stewart, foreboded that his illness would "too probably . . . terminate in" what he discreetly denominated "bad consequences."[11] The word *consumption* was avoided as we avoid *cancer*. During the Winter at Mount Vernon, the invalid was sometimes, as his Ledger and letters show,[12] able to take short journeys; but in March he wrote his commanding officer, Colonel Stanwix, that he had "now too much reason to apprehend an approaching decay, being visited with several symptoms of such a disease."

Throughout this Winter, Sally Fairfax was in a situation peculiarly conducive to the receiving and expressing of sympathy. In the previous September (1757) old William Fairfax, widowed father of Sally's husband, had died suddenly. He was a man of high political distinction. In his letters to Washington he appears always as a gentleman of that fine school which is perennially old—a sympathetic observer of the mundane tragi-comedy and a warmly human friend. One may smile when, with eighteenth-century classicism, he commends Cæsar's *Commentaries* as *vade mecum* for Indian warfare; but if any one deserves the credit of discovering the Father of his Country it is William Fairfax. Time and again he sends the young soldier messages from Sally, adequately formal in manner yet suffused with the personal touch, once calling her George Fairfax's beloved dame—"G Fx his beloved Dame." [13] Upon his death, Sally wrote in the Belvoir album that sorrow never comes single, and that we never rightly value a thing till it is lost—"Un malheur ne vient jamais seul. On n'estime jamais une chose assez avant que nous l'avons perdu." A modern kinsman, the late Captain Wilson Miles Cary, wrote a little biography of Sally, largely based on her papers, which another kinsman edited and printed privately. Of this passage the editor says: "The curiosity of subsequent generations has always been piqued as to what was the other 'malheur.'" [14] Attention to dates may afford an answer.

Old William Fairfax died on the 3d of September. His son, George William, as we find in his letters to Washington, arrived in New York on October 12, 1757, and in London on November 25.[15] The object of his journey was to secure the post of Collector of Customs which his father had enjoyed, and to look after property in England which he had inherited.[16] Eventually, he and Sally "went home" to live—and to die. When Sally recorded the death of old William Fairfax in the Belvoir album, her husband was soon to go on a rough winter voyage, then distinctly perilous—perhaps had already departed—leaving her doubly forlorn. "Un malheur ne vient jamais seul."

There was, indeed, a third *malheur*—though not of the kind to record in the Book of Belvoir. Young Washington, racked with pleuritic pains, arrived at Mount Vernon in November. Sally, as we have seen, was under injunctions from her husband as to things

touching her own welfare and especially his satisfaction upon his return. To all appearances, George Washington was no less circumspect than Sally's husband. His illness had come on him at the moment of George Fairfax's departure; and, according to Captain Stewart, he had risked death rather than return to the near neighborhood of her solitude and her *malheurs*. Shortly after his arrival at Mount Vernon he wrote her a letter, not hitherto published, the self-restraint and humble pathos of which must command the attention of even those who are shocked into coma by the idea that he had never more than a divided love for Martha. It is derived from a transcript which Captain Cary made from the original, that transcript being now in the possession of a member of the family.

Mount Vernon, 15th Nov. 1757.

DEAR MADAM,

I have lingered under an indisposition for more than three months; and finding no relief above, on the contrary, that I daily grew worse, I have followed my surgeon's advice, to leave the place, and try what effect fresh air and water may have on my disorder. On Sunday last I arrived here, and on yesterday Mr. Green was so kind as to favor me with a visit, and prescribe for me. He forbids the use of meats, and substitutes jellies and such kinds of foods for a constancy; now, as my sister is from home [Mrs. John Augustin Washington], I have no person that has been used to making these kind of things, and no directions, I find myself under a necessity of applying to you for your Rec't Book for a little while, and indeed for such materials to make jellies as you think I may not at the time have, for I cant get Hartshorn Shavings anywhere. I must also beg the favor of you to lend me a pound, or a smaller quantity if you can't spare that, of Hyson Tea. I am just out and cannot get a supply anywhere in these parts. Please also to lend me a bottle or two of Mountain or Canary wine. Mr. Green directs me to drink a glass or two of this every day mixt with water of Gum Arabic.

Pray make my compliments acceptable to the young ladies of your family, and believe me to be, dear Madam—

Your Most Obed't Servt

GO: WASHINGTON.

How the situation thus staged by fate fell in with the absent husband's directions as to Sally's welfare we can only guess; but that she held aloof from her friend of ten years during all that dark, disconsolate Winter is not to be conceived. A life so full of strength and achievement was ebbing, and a courage not accustomed to flinch was giving way to despair. If there were passages of which the memory was tender, can any one wonder? Somewhere and somehow, as we know, there were, more or less, a thousand of them.

Surely the mind may linger among the possibilities of that old, unhappy, far-off struggle of the flesh, that battle of the spirit long ago.

A few dates more have biographic implications. At some time before February 6, there were rumors that he was dead; but by February 14 it was reported that he "was beginning to master the Infirmity." His Ledger shows that on February 13 he gave fees to the Fairfax servants amounting to nineteen shillings, doubtless as result of a visit to Belvoir, one Myrtilla receiving ten of them. On March 16 he feed "Mrs Custis's servants" thirty shillings.[17] By the first week of April he had struggled forth to duty at his frontier post, and before Summer he was engaged to the amiable young widow whom he married. As will presently appear, when he returned to service Sally still withheld her correspondence; and she would doubtless have continued to do so except for the news of his engagement, and for a highly characteristic explosion on his part —the antecedents of which we must now trace through the preceding years.

V

In 1754, a year before Braddock's defeat, and two years after the Fauntleroy affair, Washington had asked for letters from George Fairfax's sister, Sarah Fairfax Carlyle of Alexandria, in the hope, as we may guess, of receiving news of Sally. On June 17, Mrs. Carlyle, naïvely conscious of epistolary defects, warned him that she might not be able to "continers" the correspondence with sufficient "Spirret," and let drop a hint which indicates that his feeling for Sally was as well known to the Fairfax kindred as to John Washington—one of the reasons, no doubt, why Sally was reluctant to write. Mrs. Carlyle points out that "preserving your Country from the Insults of an Enimy" is "A Noblier prospect" than (my italics) *"those pleasing reflections on the hours past,"* which *"ought to be banished out of your thoughts."* Then she hints broadly that he had best marry: "On your return, Who knows but fortune may have, reserved you for Sum unknown She, that may recompense you for all the Tryals past."[18]

It must have been a thought long familiar to the lonely tortured bachelor of Mount Vernon. That others besides Mrs. Carlyle urged him to marry we know. A year after Braddock's defeat when he

met the lovely heiress of Phillipse Manor, Yonkers, on his colorful mission to his Commander-in-Chief in Boston, he lingered ten days in New York. After his return his New York friend, Joseph Chew, endeavored for over a year to make a match of it.[19] But, though Washington presently went North again, to Philadelphia, he did not make the suggested "flying March" upon Yonkers. Irving, who was nearest of biographers to this affair, in time and in place, says of it: "That he was an open admirer of Miss Phillipse is an historical fact; that he sought her hand, but was refused, is traditional, and not very probable." [20]

Not until after the sombre Winter of 1757–8 did the idea voiced by Mrs. Carlyle come to fruition. Moore gives the date of Washington's engagement as both February and May, 1758, and G. W. Parke Custis gives the year only.[21] March 16 and June 5 are probable dates, on both of which Ledger A records fees given to her servants. Martha was pretty, amiable and deeply sensible, but uncultivated and eight months his senior. Her first husband had died the previous Summer, leaving her with two children and a very large fortune. The romantic story of Washington's courtship, recorded by the magniloquent Custis well on in the nineteenth century from the "tradition" of negro servants, takes on a very different color when two letters which Washington wrote to Sally during his engagement are set beside the following brief note of the same period to Martha—one of the very few survivors of the holocaust which she made of their correspondence after his death.

> July 20, 1758. We have begun our march for the Ohio. A courier is starting for Williamsburg, and I embrace the opportunity to send a few words to one whose life is now inseparable from mine. Since that happy hour when we made our pledges to each other, my thoughts have been continually going out to you as another self. That an all-powerful Providence may keep us both in safety is the prayer of your ever faithful and affectionate friend.

That is all. In those stately and reticent days, devoted husbands and wives called each other "friend," notably John and Abigail Adams. But the letters of those rock-bound puritans breathe to the last more of intimacy and of love than this brief farewell of an idealistic and passionate Virginian riding to battle and a possible death. Nor does Martha appear more ardent. She had been advised by her lawyer to "employ a trusty steward";[22] and, when rallied upon her

engagement, is said to have explained with a laugh: "I had to have a manager for my estate." There is many a true word spoken in jest. If gossip as to Sally had been at all as busy as it appears to have been, one point of this jest had a feminine barb. On his part Washington is reported, by Marion Harland, to have written in "a letter still extant" but not printed: "You need not tease me about the beautiful widow. *You* know very well whom I love."[23] Possibly it was to Sally that he wrote thus. Captain Cary printed only such of his letters to her as had already appeared, and her papers have since been scattered. Every record of Washington's married life bespeaks affection and happiness, a loyal and unflagging co-operation in the high art of living—but also bespeaks, though in the highest sense of the word, a marriage of convenience. Knowing what we do of his instinctive wisdom and integrity, we may well believe that, so far as he was in honor bound, he did not conceal or embellish the state of his heart. It was literal truth that their lives were "inseparable"; nor can we doubt that he cherished her always as "another self."

In a very different vein are his two letters of the following September to Sally, letters which she treasured to her death. Paul Leicester Ford's objection that the evidence of their authenticity "has not been produced" is scarcely worthy of consideration. In writing the first draft of his little biography, Captain Cary, a devoted antiquary and genealogist, had access to Sally's papers and copied them. The final draft was prepared as an answer to Ford, but was still in manuscript when Captain Cary died. Privately printed for distribution among the connection, it has never been obtainable by purchase. In such matters family tradition is of great weight, and in this case it is of the clearest and most substantial. It is sustained, moreover, by evidence both external and internal which is beyond the power of the cleverest impostor to invent. The letters, as also that written in 1757 on Washington's return from the front to Mount Vernon, fall in perfectly with all the evidence as to his mood and movements, most of which is now for the first time assembled; and they bear the stamp of his character and habit down to the unprevised sentence-structure and elaborate punctuation. The autograph originals could scarcely be more convincing. It was all this, doubtless, which prevailed upon Ford's brother to include them in his edition of the *Writings,* though he followed the provoking habit of the

time in withholding essential data as to their provenience and biographic import.

At the time of these letters George Fairfax had returned from England; but, though they were of a highly private nature, they were not, as has been said, clandestine. Both were carried by common friends and contained messages to others. In that day postboys and postmasters were curious, and their leisure was great; to send a letter through them was in some measure to publish it. Washington frequently complains of this; his present comrade and future antagonist of the Revolution, Thomas Gage, called it "damn'd villainous."[24] The letters were written in answer to letters from Sally apropos of Washington's engagement—which appear to have been couched in a gaily blended vein of congratulation and teasing. Some of the allusions require explanation. Washington was in angry disagreement with his superior officers upon the question of which road to take in the new push against Fort Duquesne, and had made petulant charges against them little short of scandalous. Sally appears to have suggested that, prompted only by a desire to be back with Martha, he was once more to resign. Possibly also she hinted teasingly that a heart so versatile might be turned toward the "reigning toast" of his camp. He answers these gibes briefly and dispassionately; but the thought that, in spite of his marrying, she does not *disrelish* correspondence—that a situation long clouded is clearing—brings an uprush of joy and happiness, an explosion muffled but of terrific force. His confession of undying love for her is so carefully veiled from any intrusive eye, so skilfully hedged in by "eloquent silence" that half a century of biographers felt able to ignore it; but once the negro tradition of a romance with Mrs. Custis is laid, and the extant records sifted, it stands forth in titanic vigor. Yet even so there is always the certainty of control. If he speaks of reviving tender passages, he adds that he has already found this impossible and gloomily resigns his passionate "Human Nature" to the control of "Destiny." As to the state of Sally's feeling for him—the "one thing above all things"—he seems as much in the dark as we are to-day. By some curious magic his sentences, so often involved and lumbering, are quite lucid and are notably rich in those cadences, as musical as they are melancholy, which are never absent when his heart is flowing toward those whom he holds dear.

Camp at Fort Cumberland, 12th Sept. 1758.

Dear Madam:

Yesterday I was honored with your short but very agreeable favor of the first inst. How joyfully I catch at the happy occasion of renewing a correspondence which I feared was disrelished on your part, I leave to time, that never failing expositor of all things, and to a monitor equally faithful in my own breast, to testify. In silence I now express my joy; silence, which in some cases, I wish the present, speaks more intelligently than the sweetest eloquence.

If you allow that any honor can be derived from my opposition to our present system of management, you destroy the merit of it entirely in me by attributing my anxiety to the animating prospect of possessing Mrs. Custis, when—I need not tell you; guess yourself. Should not my own Honor and the country's welfare be the excitement [incitement]? 'Tis true I profess myself a votary of love. I acknowledge that a lady is in the case, and further I confess that this lady is known to you. Yes, Madame, as well as she is to one who is too sensible of her charms to deny the Power whose influence he feels and must ever submit to. I feel the force of her amiable beauties in the recollection of a thousand tender passages that I could wish to obliterate, till I am bid to revive them. But experience, alas! sadly reminds me how impossible this is, and evinces an opinion which I have long entertained, that there is a Destiny which has control of our actions, not to be resisted by the strongest efforts of Human Nature.

You have drawn me, dear Madame, or rather I have drawn myself, into an honest confession of a simple fact. Misconstrue not my meaning; doubt it not, nor expose it. The world has no business to know the object of my love, declared in this manner to you, when I want to conceal it. One thing above all things in this world I wish to know, and only one person of your acquaintance can solve me that, or guess my meaning. But adieu to this till happier times, if I ever shall see them. . . . I dare believe you are as happy as you say. I wish I was happy also. Mirth, good humor, ease of mind, and—what else?—cannot fail to render you so and consummate your wishes.

If one agreeable lady could almost wish herself a fine gentleman for the sake of another, I apprehend that many fine gentlemen will wish themselves finer e'er Mrs. Spottswood is possesst. She has already become a reigning toast in this camp, and many there are in it who intend (fortune favoring) to make honorable scars speak the fulness of their merit, and be a messenger of their Love to Her. . . . I should be glad to hear of your speedy departure [from the home of her girlhood, Hampton, for Belvoir] as I shall thereby hope for your return before I get down. . . . Be assured that I am, dear Madame, with the most unfeigned regard, your most obedient and most obliged humble servant.

Could any evidence be stronger that, for all the "tender passages" this is his first "confession" of love? However closely two desolate hearts had been drawn together in the past winter, honor and loyalty had held sway with both—aided, no doubt, by Sally's audacious fencing. Then Martha Custis appeared, widow of less than a year, with a need not unlike his own.

This letter Sally answered at once. Anticipating Victorian biographers, she was obtuse to its veiled implications—or wisely pretended to be so. She seems, however, to have ceased her teasing badinage. His response, dated September 25, is long, containing much news of the second expedition against Fort Duquesne; yet it contains these passages:

DEAR MADAM:

Do we still misunderstand the true meaning of each other's letters? I think it must appear so, though I would feign hope the contrary as I cannot speak plainer without—but I'll say no more and leave you to guess the rest. . . .

I am extremely glad to find that Mr. Fairfax [Colonel George Fairfax's young brother, William Henry] has escap'd the dangers of the siege of Louisburg. . . .

I should think our time more agreeably spent, believe me, in playing a part in Cato, with the company you mention, and myself doubly happy in being the Juba to such a Marcia, as you must make. . . .

You ask if I am not tired at the length of your letter? No, Madam, I am not, nor never can be while the lines are an Inch asunder to bring you in haste to the end of the paper. You may be tired of mine by this. Adieu dear Madam, you will possibly hear something of me. or from me, before we shall meet. . . .

Captain Cary admits a question as to the good taste of such highly personal bantering on the part of his kinswoman of long ago, even as to the propriety of Washington's "confession." To a detached outsider it appears that, without full and exact knowledge of her letter, we must give all benefit of the doubt to a woman whose known conduct was so discreet. At the worst, both scruples seem irrelevant—out of scale with an occasion of some magnitude. However Sally's heart may have been divided, it is beyond question that she truly loved her husband. After his death in 1787 she thus excused poor penmanship: "Weeping has robbed me of sight." She added one of those little lies so comforting to loyal afflicted hearts: "Your dear brother was as highly esteemed as any man in England." As to Washington's engagement it was her first duty to take the situation lightly, trusting him to do the same. She could scarcely have foreseen the result—an eruption of forces which, however self-controlled and veiled in the expression, was of the same order as that caused later by St. Clair's defeat. In her second letter she wisely ignored this, treating his declaration as if it had not occurred. The only real question would seem to be whether she was able to keep

up the gay pretense and whether he eventually succeeded, as in the few similar crises of which we have record, in suppressing the volcano within.

VI

For the four and a half years preceding Washington's marriage, and for the first year after it, we have no diaries. Yet we know that by the Summer of the fateful year George Fairfax, returned from England, had renewed his friendship. On July 6, 1758, one Gabriel Jones, who was managing Washington's campaign at Winchester, writes: "Colo. G. Fairfax will be up & am in hopes will make a great Alteration upon Potowmack." On July 25, "Col. Fairfax" is in Winchester, working for Washington's election as Washington had worked for his in Fairfax County. He writes: "May . . . [you] sit down quiet and easy for the future on the banks of the Potomack." Already he has thoughts of moving to England; but Washington's presence at Mount Vernon "will be the greatest inducement to keep me on this side the water." After the election he busied himself superintending additions which the absent soldier was making on his house, doubtless with a view to his marriage. In his reports of progress he delivers messages from Sally and even delegates to her the answering of one of Washington's letters.[25] That he was in the dark as to Washington's feeling for his wife is scarcely to be believed. That he remained constant in friendly service is a fact honorable to all three.

The letters about the building at Mount Vernon are signed "Wm. Fairfax," and Rupert Hughes attributes them to George's younger brother, William Henry Fairfax. But the young man, just out of school in England, was in New York in October, 1757, bought a lieutenant's commission in the English Army a month or so later, served at Louisburg in 1758, and was killed before Quebec in September, 1759.[26] That this "Wm. Fairfax" was Sally's husband, George William, is amply attested. Gabriel Jones calls him, not "Mr.," as Washington calls his brother, but "Colo. G," and a list of the Winchester voters copied in Washington's hand includes "Colo. Geo. Wm. Fairfax." The letters I have quoted, preserved among the voluminous *Papers of Washington* in the Library of Congress, are in his unmistakable handwriting—precise as copperplate even

in its extensive flourishes. As first-born, apparently, he had adopted the "style" of his honored father.

When Washington resumed his diaries in 1760 we find that the two households are in constant intimacy—singly and by couples, calling, dining, spending the night. If further excuse is needed for the explosion to Sally it lies in the fact that the effect of it was to place this intimacy, which he must have foreseen or at least hoped for, on a basis of truth. Doubtless "time, that never failing expositor of all things," was not needed to convince Sally of his love; but to all outward appearances the "Destiny" which honor dictates, and also the needs of daily life and of familiar affection, has overcome rebellious "Human Nature." Frequently the two Georges hunt together. When Washington, returning from a journey, found Martha "broke out with the Meazles" Sally called so soon as she began to mend.

It was a busy, abundant life, of which we have to-day only the faintest simulacrum. In the countrysides surrounding New York, Boston, Philadelphia, Chicago, there are house parties and hunting, summer and winter sports; but food and drink come from the city and the men go to it almost daily. In mid-summer most families move to mountains or seashore, in Winter to a town house and then to the South. In old Virginia there were no cities and little travel. The business of living was with the soil, the pleasures such as the countryside made for itself. Without effort and inevitably, the planter took part in the local political life and tended to take part in that of State and nation. His wife was mistress of an "industrial" household, manufacturing most of what it ate and wore. After his retirement, Washington noted with grim humor that travellers who called to "honor" him made his home like "a well resorted tavern." But most Southern mansions were more or less that, a fact of which tavern keepers bitterly complained. On one occasion Martha was confronted with the problem of providing food and beds for a dozen guests. Sally Fairfax, doubtless, was scarcely less occupied. Mrs. George Haven Putnam, in her brilliant volume, *The Lady,* describes the Southern housewife as leading a life almost as restricted and laborious as her slaves. Certainly she had the "economic basis" for which modern women pine, being no liability to her husband, but an asset of the first order. For Martha as for George, life was even and full.

Yet into the web of this busy, useful existence, adorned with social grace and ennobled by patriotic thought and action, the love of George Washington for Sally Fairfax weaves subtle and all but invisible threads of gaiety and sorrow, of deep happiness and deeper pathos. Human nature goes hand in hand with time and destiny. That had doubtless been the instinctive, the half-unconscious purpose of his passionate "confession" to Sally. Though riding in the whirlwind, he directed it to such ends as were fruitful and honorable.

When Martha's grand-daughter, Nelly Custis, grew to young womanhood the idea occurred to her, which to so many desirable young things seems so original, that she would never marry. Washington, in the last harassed year of his Presidency, took time to write, commending her grammar and penmanship but counselling her not to make that "boast."

> In the composition of the human frame there is a good deal of inflammable matter, however dormant it may lie for a time, and like an intimate acquaintance of yours, when the torch is put to it, *that* which is *within you* may burst into a blaze. . . . Love is said to be an involuntary passion, and it is, therefore, contended that it cannot be resisted. This is true in part only, for like all things else, when nourished and supplied plentifully with aliment, it is rapid in its progress; but let these be withdrawn and it may be stifled in its birth or much stinted in its growth. . . . Hence it follows, that love may and therefore ought to be under the guidance of reason, for although we cannot avoid first impressions, we may assuredly place them under guard.

The "intimate acquaintance of yours" who, at the touch of the torch, "burst into a blaze" has not been identified. Possibly it was no mere acquaintance but Nelly's sister Eliza, just then making a hasty marriage not destined to be happy. In any case, the whole letter reads like a commentary upon Washington's own affair with Sally and the "guard" placed over it. The importance he gives to first impressions confirms our guess as to his boyish cryptogram and his proposal to Miss Fauntleroy.

To return to our chronicle. In 1773, after a full dozen years of such living, "poor Patcy Custis Died Suddenly." "Colo. Fairfax and Lady" came for the burial service and "dined here." For three days Washington "continued at home all day" except that on June 22 he "Dined at Belvoir"—accompanied by other members of his family but not the bereaved Martha. On June 29, Martha dined there with

him but there was no other company. Ten days later the Fairfaxes went to England, never to return. The diary for July 8 says: "At home all day. Colo. Fairfax and Mrs. Fairfax came in the aftern. to take leave of us and returned again." On July 9 we have: "Mrs. Washington and self went to Belvoir to see them take Shipping." In the following year the furniture at Belvoir was sold. Washington bought a card table, at which he and Sally must often have sat. He paid twice as much for a Wilton carpet, presumably for Martha. Employing one William Copan to put his "cypher" or coat of arms on his pew in Pohick Church, he paid for a similar service on the Fairfax pew—which advance, as his Ledger tells us also, was repaid. After the Revolution he wrote suggesting that the Fairfaxes return. As Belvoir had been destroyed by fire, he offered the hospitality of Mount Vernon while they were rebuilding it. From then until after the long, hard years of his Presidency, Sally is enveloped in his silence.

Silence was not forgetfulness—not even forgetfulness of his phrase of 1758 about time the expositor. In 1798, nineteen months before he died, he wrote her two letters. One of these he signed; the other Martha copied and signed. Her letter expresses "my affectionate regard for you" and says that "not having you as neighbor and companion" is "among my greatest regrets." He was sixty-six, Martha sixty-seven and Sally sixty-eight. Here is the personal part of the letter he signed, the passional melancholy of his prose cadences touched with wistful serenity.

My dear Madam, Five and twenty years have nearly passed away, since I have considered myself the permanent resident of this place, or have been in a situation to indulge myself in a familiar intercourse with my friends by letter or otherwise.

During this period many important events have occured, and such changes in men and things have taken place, as the compass of a letter would give you but an inadequate idea of. None of which events, however, nor all of them together, have been able to eradicate from my mind the recollection of those happy moments, the happiest in my life, which I have enjoyed in your company.

Worn out in a manner by the toils of my past labor, I am again seated under my vine and fig tree, and wish I could add, that there are none to make us afraid; but those, whom we have ben accustomed to call our good friends and allies, [*i. e.*, the French under Napoleon] are endeavoring, if not to make us afraid, yet to despoil us of our property, and are provoking us to acts of self-defense, which may lead to war. What will be the result of such measures, time, that faithful expositor of all things, must disclose. My wish is to spend

the remainder of my days, which cannot be many, in rural amusements, free from the cares from which public responsibility is never exempt. . . .

It is a matter of some regret, when I cast my eyes toward Belvoir, which I often do, to reflect, the former inhabitants of it, with whom we lived in such harmony and friendship, no longer reside there, and that the ruins can only be viewed as the memento of former pleasures. Permit me to add, that I have wondered often, your nearest relations being in this country, that you should not prefer spending the evening of your life among them, rather than close the sublunary scene in a foreign country, numerous as your acquaintances may be, and sincere as the friendships you may have formed. . . .

Knowing that Mrs. Washington is about to give an account of the changes, which have happened in the neighborhood and in your own family, I shall not trouble you with a repetition of them.

This collaboration, I think, removes all doubt that Martha knew, had always known, the sad truth in her husband's heart; and it raises her well-nigh to the heroic plane upon which he and Sally Fairfax lived—far above the pink-and-blue "tradition" handed down by servants and welcomed by the Victorians.

Sally did not return. During the years in which Washington had become hero of all the world, she had been a lonely, childless widow and now was tortured by gout. Her husband had died in 1787, too soon to inherit the Fairfax title. His estate in Virginia had been rendered unproductive by non-residence and by the Revolution; and, as letters in the possession of Virginia relatives show, he had crippled himself by loans to an English kinsman. Sally in turn had straitened her means by ill-requited liberality to a Fairfax nephew in America. And Belvoir was in ashes. Better remain to Washington as he had known her, as we see her to-day in her crudely quaint portrait, quizzically young and fair, holding aloft in her left hand a white rose—which surely some day will be recognized as what her kinsman calls it, "the white flower of a blameless life."

VII

In his youth (muttering "I wish I were happy also") Washington described Sally as a creature of "mirth, good humor, ease of mind, and—what else?" At least the suggestion of an answer to this dark question has distilled itself into his official writings. The *Cato* of Addison, much esteemed by Sally, contains these lines:

> 'Tis not in mortals to command success
> But we'll do more, Sempronius—we'll deserve it.

After-generations have found this rather priggish, and perhaps it is. If the truth be told, Washington took it seriously. In the darkest hours of the Revolution, when defeat had followed defeat, when a pitifully dwindled army of patriots, clad in rags and tatters, left the blood of their chapped bare feet in the Winter snow—when "slavery" to Britain loomed, and the traitor's gallows—Washington said over and over in his heart, repeated and re-repeated in letters to his comrades, that, though they might not command success, they could still deserve it. Those about him took up the heroic mood expressed in heroic measure, notably the ablest and stanchest of them, Nathanael Greene. Though Washington had been a member of the Congress of 1774, which interdicted "Shows, Plays, and other expensive diversions," he caused *Cato* to be performed at Valley Forge and attended with his Lady.[27] His soldiers packed the playhouse to the doors.[28] The play was, in fact, the very Bible of republican idealism. Julius Cæsar might be an amiable gentleman, an antagonist as clement as he was brave, even a great statesman; but his purpose was to destroy the Republic, and so

> Curse all his virtues! they've undone his country!

Cato died on his sword rather than share Cæsar's greatness.

That Sally was of the high Catonian mood is beyond question. Her husband's family, to which she gave all loyalty under many and varied trials, had been liberals inclined toward republicanism since the days of the great Cromwellian Fairfax. The Lord Fairfax who befriended the boy Washington was, according to contemporary authority, "liberal almost to excess"; he "had been brought up in Revolutionary principles, and had early imbibed high notions of liberty"[29]—though our historians have strangely charged him with being a Tory. Sally's husband was prevented by residence in England from joining the Revolution, and if he took thought that he was heir to the Fairfax title and estates that was only human. Yet he was known to sympathize with the cause—being, as he wrote Washington, "a marked man and closely watched." If Washington's letters to him were found, "he might be confined to some loathsome jail or other, if not worse."[30] The Belvoir production of *Cato* in 1758 was true to a family tradition ingrained and ancient. In Sally also the liberal tradition was native and dominant. Letters

which she wrote from the centre and stronghold of English fashion are eloquent of Washington's "what else"—of the mind and mood that underlay her girlish mirth and teasing. Aristocrat though she was by birth, breeding, and marriage, she carried republican ideals even into the realm of matrimony. "The worthy man is to be preferred to the high-born who has not merit to recommend him." Writing thus, she alludes to that mighty line of Cato:

> Whoe'er is brave and virtuous is Roman!

Concurring in her nephew's decision to drop the Fairfax title, she adds: "I pray Heaven you may never be divested of that true dignity that elevates men above the common rank of mortals and in the end sets them far above anything that a King or family can do." In such sentiments she was as scrupulously "regular" as Washington. Living in a century and in a country given to long credits, she writes: "It has been the maxim of my life to go without what I wanted ever so much if I could not pay instantly, for I considered that I robbed the seller of the interest on his money by withholding payment." Apropos of a proposed means of preventing loss to her husband's estate, she adds: "I never can think that any kind of injustice can prosper, nor could I wish that any one that is dear to me should be stigmatized with any kind of *fraud,* if by putting it in practice he could possess all the lands of England."[31] Small wonder that young Washington longed to play the heroic and virtuous barbarian Juba to her heroic and virtuous patrician Marcia! Note that the happiness would have been "double"—not only as lover but as Catonian?

Whatever the origin of Washington's republicanism, we know well that it was instinctive and unswerving as no principle can be that does not receive strength and color from sources the deepest and most vital. In those first critical months after the peace of 1783, many of his officers, and many leading civilians, were convinced that the only way to reap the fruits of the long struggle was to use the army to impose a new constitution. Their idea was the same as Cæsar's—to make virtue a short cut to the common welfare. A group of his own officers, as we shall see, urged a monarchical government with Washington as King. That he instantly and indignantly refused is perhaps not remarkable. What followed is. Only

six years later this amazing man had "quite forgotten" that "private transaction."[32] The idea simply did not belong in his mind. In view of the later charge that the Federalists whom he led were "monocrats," this fact is assuredly of some moment. Nor will our psychology err greatly in regarding his stanch republicanism as closely associated and interpenetrated with memories—memories that remained warm until death—of a then modern Juba and Marcia.

VIII

Eugene Prussing has enthusiastically called this "the finest love story in the world." His phrase requires definition. The incidents are scarcely of the caliber of tragedy and grand opera as we know them—to the furnishing forth of which such trifling ingredients seem needful as treason, adultery, incest, murder. The pathos and poetic appeal of this story consist precisely in the fact that, instinct with human passion, it runs true and clear, shunning every pitfall. If we are to understand the soldier Washington, and especially the constitutionalist and President, we must keep it always and firmly in mind. Nowhere else can we see at once and so clearly the depth of his passions and the heights of his self-control, the singleness of his thought and its purity. "Human Nature" is strong; but, to the man of honor and truth, "Destiny" is stronger. And time is the never failing expositor of all things, whose decisions are to be awaited in a silence that speaks more intelligently than the sweetest eloquence. It is not an elaborate philosophy; yet it is comprehensive, and in all the varied crises of his life it served him well—served us well, his children. In one sense he was, as the Victorians would have it, a man of marble. His soul was a Grecian Urn, foster-child of silence and slow time. This much at least can be said of his love story, that in all biography it is the most humanly warm and decent and wise—the most civilized.

CHAPTER IV

WASHINGTON AND THE UNION

I

Those who have studied the development of the American Union lay stress, and rightly, upon Benjamin Franklin's Albany Plan of 1754, which proposed that the Colonies unite under the Crown for the better prosecution of the French and Indian War. True, it came to nothing; but that was because it was in advance of its time. As Franklin said in his old age, the Colonies were as averse to submission to an all-inclusive authority as England was averse to an American union. The idea had been conceived, however, and a programme laid out; a far-reaching conception had been expressed in words. That is always a fact of might.

Yet the vocal thought is not everything. Progress comes also through men who express themselves not so much in words as in deeds—who silently trust in the righteousness of their desires and labor on, relying for fulfilment upon experience, upon "time the never failing expositor of all things." When Washington broke his habitual reticence, it was not so much to voice an idea as to achieve some concrete end. In this instance time and his deeds outran articulate thought. In 1789, when Franklin looked back upon his Albany Plan, he was himself opposed to authority—as embodied in the new Constitution, over the birth of which Washington had presided and to which his two administrations were about to give form and substance. It may be worth while to trace the slow stages by which the tortoise outran the hare.

II

Historians of the Constitution, themselves thinkers and sayers rather than doers, may well reconsider an anecdote often told for its picturesque revelation of character. When Morgan's broad-shouldered riflemen from the Pennsylvania and Virginia backwoods arrived at Cambridge in fringed hunting shirts and pegtop leggings,

they became an object of derision to Glover's Marblehead fishermen, who gloried in bell trousers and the eighteenth-century equivalent of Charlie Chaplin coats. Northerners like an A and Southerners like the same inverted—there they stand, divided on a deep sectional issue. The men threw snowballs, then went at it with mittened fists. Unable to quell the "mutiny," Colonel Glover dashed to Headquarters. Washington strode to the horse ready saddled at his door and spurred to the camp. While some one was lowering the bars, the able fox-hunter leaped over them and threw himself into the thick of the Homeric fray. He "seized two brawny riflemen by the throat, keeping them at arm's length, talking to and shaking them." [1]

If it were reported that Washington used language, biographers would doubtless have made as much pother as over his explosion at Monmouth. Profanity seems somehow more important than a mere talking to. But folk interested in the genesis of the Constitution would give much to know with precisely what counsel he accompanied this deed. An approximation of it may be had by translating into the vernacular of a fox-hunting Virginia squire, thoroughly aroused, this passage from his orderly book, two days after his arrival at Cambridge: "The Troops of the several Colonies . . . are now the Troops of the United Provinces of North America; and it is to be hoped that all Distinctions of Colonies will be laid aside; so that one and the same Spirit may animate the whole, and the only Contest be, who shall render, on this great and trying occasion, the most essential Service to the great and common cause." The date is the fourth of July, 1775—Washington's Declaration of Union.[2]

Much time and many a strenuous deed had gone to the framing of this declaration. If we trace these, we shall find that, before Franklin presented his Plan, Washington, though a raw youth, perceived the need of union. By 1754, it is true, the need had occurred to many: the significant fact is that it was Washington who most concretely experienced and expressed it, and that his experience preceded the Albany Plan. In the journal of his mission to the Ohio in 1753 he noted that the French officers to whom he addressed himself, having "dosed themselves pretty plentifully" with wine, declared "That it was their absolute Design to take Possession of the Ohio, and by G— they would do it: For that, altho' they

were sensible the *English* could raise two Men for their one; yet they knew their Motions were too slow and dilatory to prevent any Undertaking by France." Precisely what this meant is revealed by a sorry confession of a year later preserved in the *Pennsylvania Archives*. "The Govt. of Virginia sent Mr. Washington to summon ye French commander . . . &, on his haughty answer, raised a few forces [for Washington's campaign of May–June, 1754] expecting ye Province of Pennsylvania wou'd have either sent men, or given a large sum to enlist such as wou'd enter Volunteers; but found that, instead of affording assistance, they fell into disputes with their Gov'r, & seemed to espouse the French claim to those Countries." Like Pennsylvania, Virginia blocked its Governor, haggling over trifles. Troops from Maryland, New York and North Carolina failed to arrive, or, arriving, refused to submit to a united authority. Washington's defeat and disgrace at Fort Necessity, on July 3, 1754, was fundamentally due to "motions" thus "slow and dilatory"—Governor Dinwiddie wrote that it was "entirely owing" to them.[3] The Albany Conference met June 19, in the midst of the chaos of disunion. It had been called for other purposes; but Franklin, using as a text Washington's report of 1753 together with the present chaos, skilfully twisted it into a conference on colonial union.[4]

This was the beginning of a long list of similar experiences. Virginia shone by comparison with her neighbors; yet, so great was the indifference to the French and Indian menace among substantial citizens that Washington's little regiment had to be recruited by drafting bankrupts, wife-deserters and homeless vagabonds. After Braddock's defeat in 1755, when the whole frontier was ravaged by scalping parties, Washington, in instructing Christopher Gist to secure Indian scouts, warned him to be "silent on this head" for fear "the Pennsylvanians" would "prevent [anticipate and compete against] him." Not even the Virginia counties would unite. In 1756 Washington wrote: "When Hampshire was invaded and called on Frederick for assistance, the people of the latter refused their aid, answering, 'Let them defend themselves, as we shall do if they come to us.' Now the enemy have forced through that county, and begin to infest this [Frederick], those a little removed from danger are equally infatuated; and will be, I fear, until all in turn fall a sacrifice to an insulting and merciless enemy." To Governor Din-

widdie he wrote that, in order "to subdue the terror of Fort Duquesne," it was only necessary that "the three colonies whose frontiers are so contiguous and our mutual interest so closely connected" should "be brought to act in conjunction." A united and vigorous offensive campaign would be far cheaper in the long run, putting an end at once to the terror and the bloodshed of far-flung Indian raids. Washington's account of the lethargy of the Virginia counties is, *mutatis mutandis,* a precise description of the conduct of the several colonies. Even when Pitt set the great forces of the Empire in motion in the common cause, they could not rouse themselves from local selfishness and lack of constructive imagination.[5]

Thus early Washington was face to face with that curious defect of the Anglo-American mind and temperament which permits us to regard liberty as solely related to individual property and conduct, not realizing that, if a people is to be free, collective wisdom and energy are requisite in its councils, and in its citizens a spirit of collective discipline and service. These words might have sounded strange to the young soldier. But the concrete fact stood out like a sore thumb, and his friend Landon Carter of the Virginia Council echoed his idea in phrases as philosophic as they are racy: "Sir, I think as you do. . . . Should we talk of obliging men to serve ye Country, yo are sure to have a fellow mumble over ye words Liberty & Property a thousand times . . . I fear next monday, altho I have but twenty [recruits] to find in Richmond, that I shall be oblygd to hunt the swamps for them, as you do Indians. . . . Like Stingy creatures they are willing to wait for rains to wet the powder and Rats to eat the bowstrings of the enemy rather than attempt to drive them from their Frontiers. Perhaps when they are at their gates they may be more thoughtful."[6] An engaging picture of disunion this: a "Senator" as this member of the Virginia Council called himself, beating the swamp for recruits with whom the Virginia commander-in-chief was to beat the swamp for redskins—both being frustrated by the old familiar outcry: The happiest country is that which is governed least! Eight years later when Patrick Henry stood forth in the Continental Congress and declared "I am not a Virginian but an American!" the phrase made him famous as a pioneer of Union. Not until ten years later, 1776, did the Continental Congress give birth to a Continental Army or the flag of

thirteen stripes snap in the wind—the one "a sickly child hard to raise" as Rupert Hughes has called it, the other still bearing the Jack of union with Britain where there should have been a circle of thirteen stars. Washington, dumb in the Continental Congress as in the House of Burgesses, had then been striving in his own way toward union for twenty years—supplying Franklin with the text for his plea, and "Senator" Carter with an object lesson, knocking the heads of his men together to get the idea into them.

Historians and biographers ignore the fact at best; at worst they portray Washington as a visionless reactionary, intent only upon safeguarding his selfish interests. Let us consider his motives in all candor. His military reasons for desiring a more perfect union mingled with—had indeed been preceded by—personal financial reasons. In 1748, when he was sixteen, his elder brothers, Lawrence and Augustine, became charter members of the Ohio Company, which received a grant of 200,000 acres between the Kanawha and the Monongahela in what is now West Virginia and western Pennsylvania. When Braddock arrived the company had already built posts for the lucrative Indian trade. Lawrence had been its chief manager. When he died, young George inherited large tracts; for his later services on the frontier he received thousands of acres more. If the French had made good their claims on the Western Waters, property rights and Indian trade would have vanished. A recent biographer has described Washington as of the banker type —a champion of strong and stable government as protecting vested interests. This description makes a vivid picture in the meanest modern mind; but there is one serious trouble with it. The banker, we know well, is apostle of cash in hand. Washington, though reputed one of the two richest men in America, seems all his life to have been in straits for ready money. As President elect, he was obliged to borrow at interest to meet the expense of going to New York and setting up his household. During his long service as Commander-in-Chief his private estate had suffered grievously, and he had refused all pay for his services. But that was only a part, and the lesser part, of his predicament. Firm in his belief in the future of the regions beyond the mountains, he was always buying land, even when the whole country was bankrupt.

If it is necessary to describe this far-off gentleman of the eigh-

teenth century in terms familiar to the meanest modern mind he must be called not a banker but a speculator. The term has ironic implications. One of the creatures he liked least was what he called a *speculatist*. By that he meant one who speculates in ideas. When Jefferson viewed askance his darling project of a traffic route to the Ohio, being swayed by *his* favorite idea that industry and commerce can only deprave a nation, Washington spoke of speculatists with distinctly less than his usual patience. But speculators seemed different, having to do with real things and actual values. And that is not all. To the modern mind Washington appears also as a promoter. His speculations were of the kind that can be made real only by enlisting other men and their money, by inducing legislatures to grant franchises and unite with one another in a common enterprise, even by influencing the conduct of the executive. We shall find, I think, that he was one of the most imaginative of this visionary kind, as he was one of the earliest and most active.

Having conceded, however, that visions of private gain mingled with his visions of the future of the American people, one must add that visions of the future of the American people mingled with those of private gain. So thoroughly were the two blended that he feared always lest his motives be misjudged. To-day, a clear discrimination is perhaps impossible—except as to results. The great project on which his heart was set ended in serious losses to himself, to his private associates, to Maryland and Virginia, to the Treasury of the United States—a fiasco in some ways grotesque. But it ended also in establishing our many trade routes between the seaboard and the West, which were the foundation of our vast national prosperity. And it led to an achievement which he had perhaps more deeply at heart. For it appears that in questions of the Constitution likewise he was, if not a speculatist, yet an ardent and lifelong speculator, staking not only his property but his life and his honor upon a republican liberty and a republican union which were forever one and inseparable.

III

In this matter of a traffic route to the Ohio, Washington's conduct presents a problem which can be solved, I think, only by close study of these constitutional speculations. When Braddock's expedi-

tion against Fort Duquesne was planned, the Ohio Company used its influence in London to have the army march up the Potomac and down the Monongahela valleys. The result was a solid twelve-foot road to the Company's trading posts and to Washington's many acres. Many contemporaries attributed to the Virginians a merely selfish motive, and Parkman inclines to this view.[7] Three years later, when Forbes proceeded against Duquesne, he landed at Philadelphia and seemed inclined to march straight across Pennsylvania, thus abandoning Braddock's road. Washington protested eagerly, feverishly, bitterly. He declared always that his only motive was the general good. "It hath long been the luckless fate of Virginia to fall a victim to the views of her crafty neighbors, and yield her honest efforts to promote their common interests, at the expense of much blood and treasure! while openness and sincerity have governed her measures."[8] But again a stubborn fact obtrudes. If Forbes were to cut a highway across Pennsylvania, uniting the eastern metropolis of Philadelphia with the predestined western metropolis of Pittsburgh, the Virginia-Maryland route of Washington's Ohio Company would have a serious and perhaps fatal rival.

The decision lay between General Forbes, who was delayed on the seaboard by illness, and Colonel Bouquet who was in charge of the advance. Washington thought that both were unduly influenced by Pennsylvanians interested in monopolizing the trade of the Western Waters, and Hildreth sides with him. Modern research finds no evidence of this. Professor Archer B. Hulbert ransacked the correspondence between Forbes, Bouquet and the Quartermaster-General Sir John St. Clair, which is preserved in the British Museum and the Foreign Office, and presented the result in the fifth volume of his scholarly and fascinating *Historic Highways*. Forbes appears as a brave and honest Scotchman whose only thought is for the success of the expedition, Bouquet as a Swiss soldier of the highest type, able and disinterested. Both lent a willing ear to Washington's representations, weighed them carefully and kept an open mind till the hour of decision. To each other they reveal a certain impatience at his eager, youthful insistence, but certainly no more than was natural. Bouquet, Washington's immediate commander, treated him with the respect due to an able subordinate, finely mingled with the comprehending tact of a French gentleman. If any mem-

ber of the British command betrayed undue influence it was the Quartermaster-General: after conferring with leading men in Maryland and Virginia, Sir John St. Clair shifted to the Potomac route. For this shift he could give no reasons satisfactory to General Forbes, and presently he turned against the Virginians.[9] The Pennsylvania route was forty miles shorter from the existing frontier. Up to that frontier the country was more thickly settled and richer in wagons, forage and supplies, while beyond it meadow grass was more abundant. Braddock's road wound through defiles, crossed and recrossed the headwaters of the Potomac and Monongahela. After long hesitation Forbes chose the Pennsylvania route.

Yet Washington did have a case. Even as to the original choice of Braddock's route it is by no means certain that the imputations of Parkman are justified. The coasts of Virginia and Maryland abound in lordly roadsteads and from the head of Virginia tidewater to Duquesne the distance is appreciably shorter than from Philadelphia. On the upper Potomac long stretches were available for the transportation of army stores by water. A practicable way to the fork of the Ohio (Pittsburgh) had long been known, and as early as 1754 something in the nature of a road had been made by Washington and his forlorn little army. In 1755 fords and defiles had not prevented Braddock's advance, though encumbered by the gigantic labors of construction. His road ran to within six miles of Duquesne and was solidly laid, wanting only minor repairs. On the rival route through Pennsylvania, the final stretches were rough and virtually unknown, having been used only by traders with pack horses. As to the feasibility of a military road over the high Laurel Ridge in Pennsylvania, reports of scouting parties were contradictory. At best a hundred miles had still to be cut, which could probably not be done before Winter. And where Braddock had three thousand men Forbes had six—plus the warning of Braddock's mistake. In Washington's opinion, a vigorous advance along the old road would have brought the army to Duquesne by the end of August.[10]

His remonstrances are in keeping with the ardor of his youthful temperament. Though a veteran in frontier warfare, his twenty-six years had not subdued the fires; his philosophy of silence and slow time did not yet extend to soldiering. Far into the Revolution, in

fact, he instinctively preferred "to put it to the touch to win or lose it all," being scarcely less eager to lead his ragged and almost powderless troops against the strong works that defended Boston than he was to cross the Delaware to Trenton. His rage against Forbes and Bouquet became highly vocal. "All is lost," he groaned; "all is lost indeed! Our enterprise is ruined and we shall be stopped at Laurel Hill this Winter." He added sardonically "—but not to gather *laurels* (except the kind that cover the Mountains)." On the face of things, this prediction was justified. Only "an accidental discovery of a new passage" made it possible to surmount Laurel Hill;[11] and even so, at the approach of Winter, a council of war actually decided "that it was not advisable to advance" beyond Loyal Hanna—some thirty miles short of the Fort.

But there was something beneath the face of things. Forbes was in league with time the expositor, expecting that successes to the northward would weaken the French and cause their Indian allies to abandon them. So it proved. Toward the end of a bleak November—after Frontenac had fallen—Forbes sent forth a detachment of 2,500 picked men carrying their food and blankets, without wagons or tents, and the few remaining French, less than five hundred, vanished down the Ohio. Where Braddock's army had been slaughtered with victory in its grasp, Forbes succeeded bloodlessly in the face of apparent failure.

Amid all his hot chafing, Washington recognized with characteristic intelligence and candor that there might be factors in the situation of which he was not aware. So far as actual conduct was concerned, he was never insubordinate. When the hated Pennsylvania road was decided upon irrevocably, he and his Virginians labored hard on it, did invaluable work scouting and took part in the final rush forward. Thanks to the unfailing respect with which his commanding officers treated him, no personal issue was involved. When one of his explosive letters came before them, they observed that "his behavior about the roads" was "no ways like a soldier"—and kept on consulting him.[12] Yet his soul was roiled to the depths, and he hurled his charges broadcast. The reverberations reached Sally Fairfax, in spite of her refusal of a correspondence, and prompted her bantering suggestion that once more he was about to resign—swayed by no military reasons but by the "animating prospect" of

his marriage. She may well have couched a warning beneath her jest, for apparently there was no depth to which his rage would not drag him.

One letter, to Governor Fauquier, is liable to a construction darker than his most unsympathetic biographers have ventured to suggest. It was written in September and relates to Major Grant's brave but premature and disastrous foray against Duquesne with only eight hundred men—picked men, futilely decimated. We now know that Grant had volunteered and in fact pleaded to go, and that his defeat was his own fault; but Washington wrote to the Governor of Virginia: "What [Grant was] to do there (unless to meet the fate he did) I can not certainly inform you. However, to get intelligence and annoy the enemy, was the ostensible plan." Something must be granted to the mood macabre; yet the underlying idea was firmly fixed in his mind. He adds that, though one Major Lewis, a fellow Virginian reported among the slain, "chearfully went upon this enterprise," he had oposed it to the utmost until "he found there was no dissuading Colonel Bouquet."[13] Doubtless Washington wrote in ignorance of the fact that Grant had volunteered; but that scarcely lessens the seriousness of his implied charge. Under "ostensible" cover, Bouquet had sent brave officers and eight hundred picked men "to meet the fate they did." Reading this letter, one has need to remember the almost superhuman forbearance with which, during the Revolution, he treated Gates and his other slinking enemies of the Conway Cabal, the warm and liberal forgiveness which he extended to momentarily disloyal friends—to Joseph Reed, to Alexander Hamilton, to John Adams. And, by the same token, when one notes the nobility of his self-control as it developed under his great responsibility, it is well to remember what passions of petulant rage he had always to master.

IV

That conduct so wry and violent had its sole origin in questions as to the fur trade, land values and a profitable route to new settlements, no one has ventured to say. But the most sympathetic seem to feel that where Braddock's road was concerned Washington thought primarily not as an American but as a Virginian and member of the Ohio Company. He and his associates had been first in

the field and, at considerable expense, had explored routes, surveyed the wilderness, cut roads and established trading posts. Now the British Army seemed to be courting a second disaster in order to open a rival route through a province as sluggish in enterprise as it was jealous of Virginia. For us, born in a time when the great danger lies in an extension of national authority at the expense of the States, it is not easy to overestimate the loyalty of the colonial American for his colony—which he called his "country," his "native land." Yet it is dangerous to judge Washington without giving full weight to his deeds, and to his words in the rare instances in which ideas found expression.

It must be noted, first, that in the very heat of his fury he was always mindful of the just claims of neighboring colonies. After the fall of Duquesne, when his hope for the Braddock road was lost forever, he urged that "commissioners" be appointed from one and all of them, to frustrate "the sinister views of designing, selfish men" who would otherwise incite the governments to "undermine" one another. What he proposed was "a general system"—a phrase which he continued to use, with ever-expanding significance, through the Revolution and until the Constitution was adopted.[14] Where the union and strength of America were involved, he was not only a speculator and promoter but, in his own baffling way, a speculatist. There is reason to believe that, from early youth, he realized vividly the importance of the "backlands" across the Alleghanies to the cause of American union, and strove to bind them to the parent colonies by indissoluble bonds.

This idea, made familiar to us through Professor Turner's stimulating studies of the frontier, received its first philosophic statement from John Fiske in 1888—one hundred and thirty years after Washington, if our conjecture is warranted, had acted upon it. Fiske's backward glance perceived "germs of national sovereignty" in what he called our "folkland." To Washington this term would have been as uncouth as *collective liberty;* but he could scarcely fail to see what it portended that Carolinians were sifting into what is now Tennessee, Virginians into West Virginia and "Kentucke." Unless the mountains that barred them from the tidewaters could be spanned by a feasible route, these sturdy Americans would trade along the Mississippi with Spain, along the Great Lakes and the

Saint Lawrence with England, and thus be lost to America. Throughout history, that had been the effect of mountain barriers. Thus far the situation is easily intelligible and we shall find abundant evidence that he saw it clearly.

One point, equally clear to Washington, now presents difficulty. If the route was to compete effectively against the Mississippi and Saint Lawrence, it must be by water, or principally so. Already in 1758 speculatism blended with speculation in the dream of a waterway ascending and descending the Alleghanies! It does not seem likely; but, if it turns out to be so, it will go far toward explaining Washington's rages against Forbes's all-land route. What is perhaps more important, it will illustrate the inward mind and mood of this philosopher of silence.

As early as 1754 we find young Washington testing the value of water as against land for military transportation.[15] Three years later, in June, 1757, Sir John St. Clair, who was in touch with the Virginians, urged the route through Maryland, linking up with Braddock's road, largely on the ground that it would make possible the use of the Potomac for transporting artillery and army stores as it had already done in the case of Braddock's expedition.[16] Presumably that was among the considerations that temporarily converted Sir John to the Virginia faction. In August Washington, pleading with Bouquet, speaks of "the great advantage of water carriage this way, which certainly is immense, (as you will find by Dr. Ross's estimation that you shewed me)."[17] He was already occupied with building flatboats. But to take full advantage of the river, its bed required to be cleared of drift logs and boulders and in some places deepened, and there was obviously no time for this.

How early Washington foresaw the importance of water transportation to commerce and national union we can only guess. Like most men of genius, he was swayed by instincts largely subconscious, more than most by his imagination, though it was well-nigh inarticulate. Students of his character have wondered that, revisiting in after years the site of Fort Necessity and the grave of Braddock, he gave no sign of what they meant to him. His was a nature which, both by an instinct of reticence and by training, tended to be silent in proportion to the intensity of emotion. We shall do well to take

note of what, in point of fact, the pine-clad mountains of Virginia and their many waters meant to him.

At the most impressionable age of sixteen, when the man and the boy in us shake hands to part, he first roughed it in the forest with his first man friend, shot wild turkeys and other fowl, worked as a surveyor and rejoiced in his doubloon a day—his first honest wage for honest work. There he first met, and noted with comprehensive eye, the painted savages against whose foibles and ferocities he was destined to struggle so long. When barely of age he went through snow-clogged forests and ice-gorged rivers on a mission the journal of which kindled the fires of hate in France and England; and then, in command of his first little ragged army, he fired the first shot in a series of wars that outlasted his lifetime. It was in the sombre forest aisles that he first encountered defeat and disgrace, first drained the golden cup of military glory. Then, most moving perhaps of all, he held command of a wide frontier on which, through weary months, men and women were scalped almost daily and little children bloodily butchered, while the bereaved survivors flocked about him begging the protection which his unsupported force was powerless to give.

No possession of land could make it more truly *his* country; but, when the Indian wars were over, he and his fellow soldiers were awarded fifty thousand acres. In the following year, 1759, an English traveller, Andrew Burnaby, visited Mount Vernon and echoed the mood Washingtonian. The Virginians "have suffered themselves, notwithstanding the superior advantages they might enjoy from having a water carriage almost to the Youghiogeny, to neglect this valuable branch of commerce; while the industrious Pennsylvanians seize every opportunity. The Virginians are content if they can but live from day to day; they confine themselves almost entirely to the cultivation of tobacco; and if they have but enough of this to pay their merchants in London, and to provide for their pleasures, they are content."[18] Yet the vision remained. In the Autumn of 1770, with his good friend Dr. Craik, he explored the Ohio waters, observing closely where they were navigable and where the bottom lands were richest. He met and mingled with the frontiersmen, whipped the trout streams, ranged the haunts of deer and bear and buffalo. Too seldom it has been noted that not only Roose-

velt of the grizzly bears and the Teddybears but Washington also was familiar with his countrymen of all classes, and was a famed frontiersman and explorer. Again in 1774 he felt the call of the Western Waters, and planned to go; but he was called away to the Continental Congress and to the army at Cambridge. That seems only to have redoubled the strength of the vision. Pine trees tossing in the wind and rivers tossing among their rocks have but one voice—a voice of mystery, enchantment. And there was that added vision of a brave land peopled by brave men and their offspring, men who were born Americans and must remain so if we were to fulfil our destiny.

A letter written in 1780 shows a thorough grasp of the importance of the Potomac "channel" as a trade route to the "rising empire" beyond the mountains; already his mind was busy with the question of locks at the falls and rapids.[19] Again and again during the Revolution he voiced his homesickness for Virginia, but when peace brought a little leisure it was not to Mount Vernon he went. To Congress he explained that the army posts on the Mohawk required inspection; but privately he admitted a purpose to explore the rival route of the Erie Canal. Money was scarcest of commodities; yet in conjunction with George Clinton, who lent him $2,500 at seven per cent, he bought six thousand acres in New York that stood to be enhanced in value by the tides of waterborne commerce. There was no trace of jealousy now. "The more communications are opened to it [the Western Country] the closer we bind that rising world (for indeed it may be so called) to our interests, and the greater strength we shall acquire by it." [20] Was this why he had so fumed and raged against Forbes's road?

V

Time the expositor gives us at least a hint. So soon as he laid down his command and put his affairs at Mount Vernon a little to rights, he packed his kit, including "hooks and lines," and set out with Dr. Craik and Bushrod Washington, his brother John's son, for the tossing pines of his Alleghanies and their tossing waters. His diary of 1784 details his search for the best river route over the mountain barrier and his eager questionings of pioneers and traders he met—some of whom fed him with false hopes from a desire to have the marvellous waterway pass their land and others

doubtless from a desire to give pleasure to the hero of the Revolution. No modern promoter was ever more specific and detailed in his forecast or more convincing to himself in argument. "From Alexandria to the navigable waters of the Ohio, along a much frequented road used by wagons, is, according to the computed distance, two hundred miles. This land carriage, if the inland navigation of the Potomac should be effected, than which I think nothing easier, will be reduced to sixty miles as matters now stand; some say to forty, and others to twenty." Than which he thought nothing easier! Observing those torrential waters to-day, as they surge over sunken shelves of rock and among projecting tables and boulders, one gains a new sense of eighteenth-century speculation.

He now admits repeatedly that his project is inspired by "interested as well as political motives"; but it is equally evident that his inspiration is political as well as interested. So long as a national campaign for the expulsion of the French was at stake he trusted the world to believe—what Sally Fairfax pretended not to—that his preference for Braddock's road was caused by "my own honor and the country's welfare." His commanding officers must certainly have believed it when they winked at his conduct "no ways like a soldier." Now, in 1784, his holdings of land were greatly increased; it was the part of policy as well as of candor to admit a private interest. We who know the whole book of his service to us can scarcely question which interest was dominant.

One obstacle, however, he had to admit—a political one. The most feasible routes from the Potomac to the Ohio lay down either the Cheat or the Youghiogeny to the Monongahela—through a region that Pennsylvania had always claimed and that had lately been awarded to her. Once again Washington was face to face with the curse of disunion, of particularist "sovereignty." With Forbes's road open and operating between Philadelphia and Pittsburgh, the Pennsylvania Legislature would not willingly permit the opening of a water route (the channel so providentially carved out by nature!) which would divert western traffic into the Potomac and build up on the Virginia tidewater at Alexandria a metropolis rivalling Philadelphia. Other things being equal, it would impose interstate taxes or refuse the franchise outright.

But other things were now far from equal, and Washington said

so roundly. The explosive force of his anger is modulated by habits of control formed in the Revolution; but the fact remains that he confided to his diary one of his few verbal outbreaks—ending a silence that had endured since his bitter opposition to Forbes and Bouquet:

> Herein I differ. An application to this purpose [a waterway franchise entering the corner of Pennsylvania] would, in my opinion, place the Legislature of that Commonwealth in a very delicate situation. That it would not be pleasing, I can readily conceive; but that they would refuse their consent I am by no means clear in. There is in that State, at least 100,000 Souls West of the Laurel hill, who are groaning under the inconvenience of a long land transportation. They are wishing, indeed looking, for an extension of inland Navigation; and if this cannot be made easy for them to Philadelphia—at any rate it must be lengthy—they will seek a Mart elsewhere; and none is so convenient as that which offers itself through Yohiogany or Cheat river. The certain consequence, therefore, of an attempt to restrain the Navigation of these Rivers, (so consonant with the interests of these people) or to impose any extra: duties upon the imports, or exports, to or from another State, would be a separation of the Western Settlers from the old and more interior government; toward which there is not wanting a disposition at this moment.

In other words, he threatens Pennsylvania with secession on her Western Waters. However angry the threat, it was by no means idle. Already "the Country of Kentucke about the Falls" of the Ohio was sending flour to New Orleans, for which "the Spaniards when pressed by want have given high prices." The English still held their old posts at Oswego, Niagara, Detroit; and when they saw "their true interests," they would like nothing better than to wean our pioneers of the West from us by trade routes easily opened between the great Lakes and the northern tributaries of the Ohio. But the Spaniards, "very impoliticly for themselves," were bent upon closing the mouth of the Mississippi, while the English were as yet thinking mainly of the fur trade. Here was "a combination of circumstances" which made "the present conjuncture more favorable than any other to fix the trade of the Western Country to our markets." The diary continues:

> No well informed Mind needs to be told how necessary it is to apply the cement of interest to bind all parts of it [our "united territory"] together by one indissoluble band—particularly the middle States with the Country immediately back of them—for what ties, let me ask, should we have upon those people; and how entirely unconnected shod. we be with them, if the Spaniards on their right and Great Britain on their left, instead of throwing stumbling

blocks in their way as they now do; should invite their trade and seek alliances with them? The Western Settlers—from my own observation—stand as it were on a pivot. The touch of a feather would, almost, incline them any way. . . . The way to avoid both separation or a War happily for us, is easy, and dictated by our clearest interest. It is to open a wide door, and make a smooth way for the produce of that Country to pass to our markets before the trade may get into another channel.

Here we find mirrored flawlessly the situation which, only two years later, caused both Kentucky and New England to tremble on the "pivot" and threaten secession, and which continued acute until it culminated in the "treason" of Aaron Burr.

Is it possible that in some measure Washington foresaw such dangers at the time of Forbes's expedition, 1758? Already for five years he had had bitter personal experience of the need of union—of the efficiency of the single French Command, though far from its base, and the feebleness of the English colonies through disunion. Even then he was deeply interested in inland navigation to the back country. A waterway binding the new settlements to the old was an undertaking too great for the Ohio Company, even for Virginia unaided; and neighboring States were paralyzed by dulness of vision, by supineness, by narrow local jealousy. But the British army of six thousand, by making Braddock's road the official highway to the West and by developing and extending water transport, might powerfully promote colonial union. Yet for no good reason Forbes was spending invaluable time and vast sums of money on an all-land route which, for the present certainly, would check the development of the "wide" and "smooth" waterway of Washington's vision. On no other supposition can his petulant rancors of 1758 be brought into harmony with his manifest character. His "behavior" of 1758 had been "no ways like a soldier" chiefly for the reason that his mind was already that of a statesman.

His vision was now as realistically detailed as it was sweeping. Detroit was an outpost in the hands of the British, but he took it as the predestined centre of the new "Empire." The distance by "inland navigation" to Albany he reckoned as 783 miles, to New York 943 miles. To Philadelphia it was less than to either, 741 miles; but to the Virginia tidewater at Alexandria it was still less, 653 miles. A comparison between the feasibility of "navigation" over the Pennsylvania and the Virginia Mountains was beyond the geographic

knowledge of the time; but he harbored no doubt that, thanks to the broad waters of the Potomac, the Virginia route was as much better as it was shorter. It had, however, one great disadvantage: the most feasible course, by the Monongahela and the Youghiogeny, entered the corner of the rival state. The only route from Detroit to Alexandria "avoiding Pennsylvania" measured 799 miles—58 miles farther than to Philadelphia. Hence the outburst to which we owe a glimpse of his statesmanlike speculatism.

That the Erie route was better than either the middle or the Southern route he was doubtless aware. Accurate measurements were made in the next century, when the question was of canals, not canalized rivers. The Erie Canal "conquered by means of locks" only 500 feet in 360 miles. The Pennsylvania Canal "faced the problem of overcoming 2291 feet in 320 miles." [21] But in 1784 the tide of westward emigration had not yet flowed through the Mohawk Valley; and it was destined to be long pent in by the fact that the British held forts at Oswego, Niagara and along the Great Lakes. From his comprehensive point of view, furthermore, there was every reason why the broad backlands should have both a northern and a southern "navigation" to tidewater. The Pennsylvania and Virginia routes were, roughly, on a par as to the height of land; and as to water the Potomac route had a great advantage. Fortunately or unfortunately for Virginia and Maryland (unfortunately, as it turned out) the river route had a champion as energetic and influential as he was imaginative.

VI

One problem troubled though it did not dismay him, the problem of locks. Benjamin Franklin, whose practical common sense was not to be warped by any vision, had in 1772 sent over from London a disquieting account of the attempt to canalize beds of rivers, even the gentle streams of the European plains. A "raging canawl" had proved no joke. Floods burst the puny locks, raised mud bars across the channel. "Especially in Hilly Countries," Franklin wrote, "Rivers are ungovernable things." In America there was the vaster danger of ice-floes pounded against retaining walls by Spring freshets. That Washington was familiar with these objections is evident in his letter to Edmund Randolph of September 16, 1785, as also

in an anonymous letter of 1774 lately found in a bunch of his papers.[22] But an all-canal route was financially inconceivable. Even to make locks about the many steep rapids seemed impossible, for where they occur there are sub-surface ledges, and the expense of blasting would be prohibitive, even with a stock company selling shares in Europe and with all possible aid from the two States. One locked canal he allowed, about Great Falls just above Alexandria. It may be seen to-day, its bed, long dry, overgrown with forest trees. At other falls and rapids he would make a channel and, on the ascending journey, haul the barges up by cable. But how would he contend against the many miles of quick water? Listen and you shall hear of James Rumsey and his marvellous "mechanical discovery."

Rumsey—"Crazy Rumsey," as he was called on the Potomac—was an inventor, original and brilliant but now almost forgotten, who made a steamboat go before Fulton, before Fitch. Washington met him during his journey over the mountains in 1784, studied the model of a "mechanical" barge or battoe, and witnessed a demonstration of its speed against running water. Though he is generally regarded as a typical conservative, he had already during the Revolution given Bushnell full scope for the primitive father of all submarines; and he now wrote a whole-hearted "certificate" as to Rumsey's invention. "I . . . do give it as my opinion (altho' I had little faith before) that he has discovered the Art of propelling Boats, by mechanism and small manual assistance, against rapid currents;—that the discovery is of vast importance—may be of the greatest usefulness in our inland navigation." The "Works" were so simple that they "might be executed by the most common mechanics." As regards details, Washington was pledged to secrecy; but it is known that the barge operated by means of "setting poles" such as punters use, which the "works" prodded ceaselessly against the river bottom.

Professor Hulbert, in his scholarly and sympathetic study of the diary of this trip of 1784,[23] tells us, but without his usual citation of authority, that these works were two cylinders, a boiler, pumps and pipes, and that they were made in Baltimore. Historians down to Channing[24] state that already Rumsey was employing steam. He did broach the idea, but Washington dismissed it with humorous incredulity as an "ebullition of his genius" and specifically denied

that he used it in his model of 1784.[25] Professor Hulbert quite ignores the marvel that Washington does disclose. In one of his many letters advocating the Potomac project, "To Hugh Williamson in Congress," he says: "The small manual assistance, to which I alluded, was to be applied in still water and to the steerage. The counteraction being proportioned to the action, it [the barge] must ascend a swift current faster than a gentle stream; and both with more ease than it can move through dead water. But in the first [a swift current] there may be, and no doubt is, a point beyond which it cannot go without involving consequences, which may be found insurmountable. Further than this I am not at liberty to explain myself." [26] If steam was used, why this sluggishness in still water? In spite of Washington's reserve, his explanation would seem to go rather far; for, manifestly, this so simple mechanism used the downrush of the water to propel the boat and its load up stream. The fiercer the torrent, the faster the barge scrabbled over it—the "consequence" being an excessive, catastrophic speed! This mechanical water-skipper was a raging canal boat, certainly. Counteraction being proportioned to action—why not? We may never know. There are questions which one trusts in vain to time the expositor.

Yet Washington's belief in Rumsey's invention, steadfast as it was enthusiastic, deserves of us every possible effort toward comprehension. Let us connect each setting pole with a paddle-wheel to be operated from without by the rapid water. When the poles were firmly fixed upon the river-bed, the boat would be stationary, and the water would have the same effect upon the paddles as the steam of a more modern side-wheeler—except that the force would be exerted into, and not out of, the craft. That is to say, the "swift current" would powerfully revolve the wheels. If this power were directed down the setting pole like the thrust of a punter, it would jab the boat upward and forward. Then the poles would set themselves again. The river-bed being uneven, however, and beset with projecting rock, the "counteraction" of the several poles would be very unequal. Even a man or two with hand-worked poles—Washington's "steerage"—would probably not be able to keep the boat true in the channel. One easily imagines the *consequences!* Washington was keenly alive to them. He everywhere insists that he vouches for the success of the boat only in the conditions of the test he witnessed

—a gentle, steady current and, presumably, an even bottom. But he was tremendously impressed—as, indeed, we are.

Since writing this, I have found a letter from Rumsey, among the *Washington Papers* in the Library of Congress, which seems to confirm the conjecture.[27]

Shepherd town, Septr. 19th, 1786.

Dr General

. . . Mr Barnes got her ready on Saterday the 9th Inst. and put about three tuns of Stone in her and could not avoid taking in nine or ten persons that were waiting to see her tryed which made near four tuns on Board, when he set out, the River being a little up was in his favor as it was not naturally Rapid where the tryal was made, he went up about two hundred yards greatly to the Satisfaction and Admiration of the Spectators, But not so to himself, for the following Reasons, first the mechinery Being fixed on But one Boat, instead of two, as first Intended prevented her from going So Steady as She ought to have Done, the people on Board Shouting and Running Backward and forward aded much to this Inconvenance, In the next place the poles or Shovers, was made of wood with Iron Spikes at their Lower end, to Sink them, which Spikes proved too Light, and caused the poles very frequently to Slip on the Bottom, But the greatest Determent was, that when a pole got a good holt on One side and not the other, it had a tendancy to give Her a Heel, which would throw part of the wheel out of water, which weakened the power, and would often Loosen the foot of the pole, so as to make it slip. These Inconvenanceys Mr. Barnes related to me, they were what I too much expected from a tryal with one Boat, But not haveing time, nor yet Being Able to Build another at the present, was therefore obliged to risk the one . . . we then went on Board for an Other Experiment, But the water had got so Lowe that it did not move But Little more than two miles per hour, which by my Calculations I had accounted only Sufficient to overcome the friction of the machine . . . [I was] almost induced to push up to pains falls which was not far above us But on Considering the lightness of our poles and the Strenth of the current in that place I Doubted their Sinking, Besides there is (you know) many Rocks in that place that Lye But Little under the water that might break the Wheel. . . . It is evident from what has Been Done that She would make a tolerable progress in all Currents that is Strait and Clear of Rocks, and moves three miles per hour or upward, But will go But Slow in Currents under that velocity. It is also certain that it will never answer a valuable purpose except when put upon two Boats (as it cannot be steady on One) in which case there is not the least doubt that it will answer every purpose that was ever expected of it. . . .

James Rumsey.

We have here, as it seems, a "mechanical invention" of the highest originality. As to the success of it under certain conditions Washington and many folk on the Potomac bore witness. It deserves a high place among the primitives of great invention.

Washington's mountain waterway was another such primitive.

Work on it was retarded when he was drafted into the Constitutional Convention by the eager Madison and the impetuous Hamilton; yet the Potomac Company revealed a vitality quite amazing. In 1783 Tobias Lear wrote Jefferson a realistic description of its initial operations and predicted that when the canal about Great Falls was completed it would be on a paying basis. In 1802, three years after Washington's death, it actually declared a dividend of five and a half per cent. But, as Franklin had predicted in 1772, the canalized river proved difficult. Thanks to floods and freshets, a commission reported, goods could be stream-borne for not more than forty-five days a year. As in all pioneer enterprises, expenses far outran the estimate. The South as a whole was farm-minded and burdened with debt. Except Washington and the small band of those whom his enthusiasm galvanized, it had no real interest in commerce—nor, indeed in American union. In 1823 the Potomac Company, long bankrupt, was formally declared so—giving way to the then more modern project of a Chesapeake and Ohio canal, which itself met a similar fate.[28]

VII

The sad fact is that the signal advances toward traffic with the West were made by the commerce-minded States of the North. In New York De Witt Clinton pushed forward the Erie Canal and opened it in 1825. Pennsylvania dug canals along the Juniata to the east of the Alleghanies and along the Conemaugh to the west of them; then it bridged the gap between, steep and waterless, with a Portage Railway thirty-six miles long. In 1834, fifty years to the month after Washington's great call for a Virginia waterway, the keel-boat Hit-or-Miss o'erleaped the Alleghanies. Ten stationary engines in series dragged it up inclined planes and through a marvellous tunnel cut in the highest mountain crest. Thus Pennsylvania repeated the victory of Forbes's road over Braddock's. Incidentally, it demonstrated the soundness of Washington's great idea, for the canal was both profitable and effective in binding the West to the East. Meanwhile, the Chesapeake and Ohio Canal Company struggled on, though hope of securing traffic from Baltimore and Philadelphia was lost; but presently private funds and State aid were again exhausted. So great was the need of a route to Pittsburgh

from the Potomac valley that the national government stepped in. Albert Gallatin worked ardently for this internal improvement. Delay followed delay; but, in 1828, John Quincy Adams as President took off his coat to turn the first spade on the new construction amid the applause of the multitude.

For some time, however, there had been a new portent on the horizon. It appeared that cars could be dragged on rails almost as easily as battoes through the water, reaching a speed on the level of twelve miles an hour. There was even talk of a *sail*-road; the car Æolus, under towering canvas, did quite a bit of "inland navigation." It was not possible, of course, for horse cars to draw heavy loads up the mountains, nor for even Æolus to tack into the wind. But the "genius" of the era continued ebullient and eventually became amphibious.

As early as 1820 Peter Cooper's locomotive Tom Thumb raced a horse car and, puffing and snorting, beat it. Not until 1830 was steam used on land with even moderate success—by the Liverpool and Manchester Rail Road. But two years before this, on July 4, 1828, while President Adams was throwing the first dirt on the Chesapeake and Ohio Canal, Charles Carroll of Carrollton, only survivor of the signers of the Declaration of Independence, performed the same office for the Baltimore and Ohio Railroad.[29] It was a coincidence as striking as the deaths of John Adams and Thomas Jefferson, precisely two years before; and it was of far ampler historic importance. The railroad was "the greatest in the world"—as projected; but a generation accustomed to traffic by canal harbored grave doubts as to its future. The Chesapeake and Ohio Canal put up a combat truly epic and in 1850 completed the 184 miles to Cumberland. But here, confronted by the high and dry Alleghanies, and by the onrushing development of steam railways, this waterway wide and smooth gave up the ghost. By another striking coincidence, it happened at precisely the spot where Washington's regiment was stationed pending Forbes's decision against Braddock's road.

Thus ended the dream of almost a century before. A purely local affair, the Chesapeake and Ohio Canal proved vastly more valuable to politicians interested in patronage and graft than to shippers of goods. It still skirts the river—and the railway—its stagnant waters

clogged with sedges and crossed by rickety foot-bridges used by farmer folk. But to the patriot mind it lives in the sacred aura of Washington's boyhood dream of American union.

From the point of view of the Twentieth Century Limited, of the automobile and the airplane, it is not easy to take this dream quite seriously. That point of view—may it be suggested?—scarcely gives the true historic perspective. To do justice, or anything like it, we must see where Washington stood as compared with the men of his time. Many of them, notably Franklin, saw the possibilities of the western lands; but none saw them more clearly than young Washington, and none strove one-half so mightily to make them realities. If he was mistaken as to Rumsey's model of 1784 it was an error on the side of imagination and liberal hope—qualities for which his biographers give him scant credit. Biographers of Franklin celebrate a pioneer of progress, yet have the sad duty of recording also that he refused aid to Fitch, Rumsey's chief rival, as flatly as did others, and that Fitch, in spite of notable achievements, died a squalid suicide. Washington had brave hopes of Rumsey's mechanical barge as of Bushnell's submarine, gave him profitable employment as an artisan, made him superintendent of the Potomac Company's construction and was patient with what, in the similar case of L'Enfant, he called "the artistic temperament." Except for an untimely death, Rumsey would probably have won the fame now bestowed upon Fulton. To have shared the hopes and trials of the pioneers of both steamboat and submarine sheds a lustre of liberalism even upon the first soldier of the American Revolution, the first Statesman of the American Republic. As to the steamboat itself he was humorously sceptical—but that was in 1784, twenty years before Fulton's Clermont and before Rumsey himself had anything to show for the ebullient faith that was in him. Shortly thereafter Washington was ingulfed in the nearer problems of statesmanship. But as early as 1770 he had noted that the deposits of coal in the Connellsville region were rich—those on his own land subsequently sold for upward of twenty millions—and also that the fuel "burned freely."[30] Can there be any doubt that, if he had once seen a steam-engine that worked, his genius would have rivalled Rumsey's in ebullience?

To gain the true historic perspective one must dismiss such coming changes as no one could have foreseen and envisage the nine-

teenth century as it would have been without them—the entire future of the nation as it appeared to even the most prescient mind. Emigration would have continued as it began, in bateaux and canal boats where they were possible and for the rest in covered wagons. The frontier which marched steadily toward the Pacific until it vanished about 1890 in the Rockies, would have been permanently fixed at the then existing limit of our territory, the Mississippi. Life would still be, as Jefferson so ardently wished, mainly agricultural and dependent for commodities mainly upon household industries. There would be little leisure and less luxury, for quantity manufacture would be possible only where there was abundant water power. There would doubtless be colleges as there had been, but the proportion of young folk attending them would be small compared to what it is to-day. Life would depend mainly on the labor of the hands, not the mind. The newspaper press would still go by man power, except when there was a waterfall handy. Really, it wouldn't have been so bad. There are times when the tabloid and traffic-light mind of to-day yearns back to it.

It is especially to be noted that, to the day of Washington's death and far into the nineteenth century, an all-canal route was impossible, the cost of construction being out of all proportion to the traffic. He could dream of no thousand-ton barge, being limited by the nature of the case to the eight- or ten-ton bateau long familiar on the Potomac. When he had cleared the river-bed and provided cables and man power at the steeper rapids, he might enlarge this somewhat, but the type must remain the same. Even so, if only the financial resources of the two States and the vision of their citizens had been at all adequate, the Company could have established itself on a paying basis, shifted to an all-canal route, and eventually extended it across the mountains, as Pennsylvania actually did. But decades passed and at last, in 1830, their northern rivals again "prevented" them. Expensive as the Juniata-Conemaugh route was to construct, it was highly profitable until it encountered the competition of the Pennsylvania Railroad. Similarly the Erie Canal was for long years abundantly successful. To them went the fame; but the original and most statesmanlike conception was Washington's; and it was commended to the American people mainly by his advocacy, enthusiastic and tireless.

With only such "inland navigation" would it have been possible to hold the new nation together? From the States north of the Ohio, thanks to the Great Lakes and the Erie Canal, Washington could look for a considerable exchange with the East, of foodstuffs for manufactures. But, with the Saint Lawrence route at hand, the population might easily turn on the pivot to England. South of the Ohio it would have fared harder with the spirit of loyalty and union. What was to prevent the inhabitants, he had asked in 1784, from building ships "fitted for sea" to be sold at New Orleans when they had discharged cargo? Early in the nineteenth century such ships were plying across the Atlantic.[31] Except for the purchase of Louisiana, as little to be expected in the eighteenth century as the coming of steam, the people south of the Ohio would have been linked commercially with Spain or France. And where men's treasure is there will their hearts be also. Sanguine as Washington was by nature, and resolutely hopeful always, this spectre of disunion haunted his two administrations and dominated his Farewell Address. Great as was the triumph of the Civil War, there was small likelihood of our remaining one nation except for the advent of steam.

VIII

If it helps the modern mind to regard this eighteenth-century gentleman as a banker, a speculator, or a promoter, the modern mind is welcome to the idea. But in one way he differed strikingly from such folk. The Virginia Legislature voted him one hundred and fifty shares in the Potomac and James River companies as a reward for his services. Instead of rejoicing and, as we should say, making his get-away, this promoter had doubts the most painful. Not that he ever questioned the success of the project. When Elkanah Watson consulted him, as highest authority, upon the feasibility of canalizing the Mohawk river, he predicted that the Potomac Company would soon pay annual dividends of twenty per cent.[32] All the more he found himself in a quandary. If he accepted the shares, the disinterestedness of his future efforts would be in question; if he refused them, the legislators might regard it as a reflection upon their motives—and their aid would be needful as his own. So he arranged that the shares and the accumulating dividends be put by to found at the new national capital a national university.

There are hints in his letters that the project was dear to him as one who had himself suffered from "defects" of education. It was more dear for reasons on which he loved to dilate. He and his comrades of the Revolution had been taught the need of union in the University of hard knocks. In the peaceful future of which he dreamed, the abler youth of all the nation should be taught at the national capital to know and revere a national union safeguarded by a strongly national Constitution.

In Washington's mind that capital was to be the centre not only of education but of commerce. Historians attribute the fact that the "Federal City" was placed where it is to "a sordid real estate transaction"—at best to a shrewd political bargain—by which Hamilton secured the assumption of the State debts. Jefferson complains bitterly in his *Anas* that Hamilton duped him. Washington's attitude toward the transaction is not of record: being in personal touch with all parties to it, he did not have to write. But any one who will read attentively his letter of 1798 to Sally Fairfax—his last letter to her—will find that, if he did not actively promote it, it seemed to him, to use a phrase of Hamlet's that flowed often from his pen, "a consummation devoutly to be wished."

Seeking to lure this gentleman of sixty-nine back to the beloved Potomac, the gentleman of sixty-seven dwells on the progress lately made in solid growth and prosperity by their little neighboring metropolis of Alexandria. This, he says, is the result of "opening the inland navigation of the Potomac River," the bed of which is "now cleared to Fort Cumberland, upwards of two hundred miles." That is a matter which they must have discussed often in their youth. But the consummation bids fair to surpass their devoutest wishes. The Federal City (as to the name of which he is silent) is to be placed "between Alexandria and Georgetown on the Maryland side of the river"; and he predicts that, "a century hence," it will be "a city, though not as large as London, yet of a magnitude inferior to few others in Europe." Thanks to his waterway, our national capital was to be New York and Washington rolled into one. To Richard Parkinson he said much the same—that it was soon to be "the risingest town" in America. The fact may be of interest to civic architects who have been astounded that he bade L'Enfant to plan a metropolis of eight hundred thousand, as also to travellers

who have marvelled at the resultant "City of Magnificent Distances." Yet, sanguine as was this dreamer, his creative spirit was still troubled by the ancient fear. To Sally he remarked that his prediction could come true only "if this country keeps united." [33]

As patriot and statesman, Washington rises into altitudes which are difficult to scale, and which are largely veiled in his habitual silence. To the general view he is still elusive, unknown. He draws appreciably nearer to us in the two great loves of his lifetime, beautiful and forlorn, the one for his fellow Catonian, Sally Fairfax, the other for his waterway wide and smooth over the Alleghany Mountains.

CHAPTER V

WASHINGTON AND THE PEOPLE

I

Fundamental in American constitutional theory is a full recognition of the people as source of political power and ultimate beneficiary of government. This is a truism so hackneyed that nothing could excuse citing it but a circumstance of the most extraordinary. Biographers of Washington have left the world in some doubt as to his opinion on the subject, even those best informed and most sympathetic. Among these I include Mr. Rupert Hughes. In so far as he has aligned himself with the debunkers, the object of his spite is not so much Washington as his book-agent biographer Weems, and the Weems-minded multitude. Judging his work by the two volumes that have appeared, it is not only the vastest in scale and the most thoroughly documented but among the most warmly and humanly appreciative. Yet he writes: "Washington grew up to regard 'the common run,' as he called them, with a profound contempt. . . . He was to the last an aristocrat of the slightest possible interest in the common people, and his lack of democracy caused him his final conflicts and defeats and most of his final deluges of abuse in his final years."[1]

Many have been of the same opinion; and no one, so far as I know, has been at pains to present the opposing view. Unless this can be successfully done, it scarcely signifies that Washington was among the earliest and most energetic advocates of national union—a thing no less dear to a monarchy. It does not even signify that from youth he was a passionately convinced republican, for republics had oftenest harbored aristocracy on the one hand and slavery on the other. Either we must cease to regard Washington as an aristocrat, contemptuous of the common people, or we must cease to regard him as Father of his country.

Two things are here involved, Washington's personal mood and his constitutional theory. Both present problems of historic per-

spective. Before we can come to any just conclusion, we must consider the man and his ideas from his own point of view and that of his generation.

II

That Washington's bearing among his fellows was not what we call democratic must be granted. In his day distinctions of class were universal, and were instinctively recognized even in republican New England. In tidewater Virginia, classes were far more sharply distinct, the gap between slave-owner and slave being bridged by no such order of independent laboring farmers. To mingle on familiar terms with "the common people," Washington would have had to step out of his class and indeed out of his century. And he was not only an eighteenth-century gentleman but a military commander. From youth it had been his duty to discipline men when their lives were at stake, and the fate of their country. Personal dignity was, moreover, among the strongest traits of his character, and life had early taught him the need of reserve. Yet with all this he was proverbially "first in the hearts of his countrymen."

That in his second term as President he suffered "deluges of abuse" is true; but they were the work of a very few and very rabid democrats, largely mercenary scribblers, foreign born. Hamilton was widely denounced as "an aristocrat" and not without color of reason, as were also his New England allies of the Federalist party. But we shall find, I think, that the great mass of Americans never doubted that Washington knew them and loved them, never hesitated to follow where they could prevail upon him to lead.

To any one who has patience to sift the facts, it is only too clear that his "aristocracy" and his lack of "interest in the common people" is the creation of biographers and historians. Having called him "an unknown man," McMaster contrasted his "refusing to be paid for his services by Congress" with his "exacting from the family of the poor mason the shilling that was his due." Channing echoed this: "As to the inner man we are even now strangely ignorant. . . . No more elusive personality exists in history."

One reason why Washington is thus unknown was elicited by Eugene Prussing, who brought the historian to book about the poor

mason. McMaster referred him to Richard Parkinson's *Tour in America.* But Parkinson, as Prussing found, "says nothing of the mason's family being poor." Out of what is probably the most thorough examination of Washington's ledgers and business papers that has ever been made, Prussing declares that he gave "kind, generous and expensive consideration" to the humble poor, and indeed all people in need; that "his charities were large, regular and habitual."[2] This is, indeed, obvious to the most casual reading of the published Writings.

Even Prussing does not sift Parkinson's gossiping tale. The plasterer (not mason) was dead, and his widow's new husband had advertised in the newspapers his willingness to pay his predecessor's debts. The sum was fifteen shillings, and the incident occurred shortly after Washington's return from command of the army of the Revolution—when, having served his country without pay, he was so hard-pressed for money that he could meet neither his debts nor his taxes. We shall have to look elsewhere for evidence as to Washington's heart and his regard for common people. The transaction was, in Parkinson's phrase, merely *regular*—characteristic only as to the scrupulous exactitude of his financial probity. Being under obligations to neighbors equally embarrassed, and to an all but bankrupt State, Washington did not choose to neglect even a trifling sum.[3]

Something more is involved in his eviction of families that had squatted during the Revolution on his lands at Great Meadows—the site of his dismal little Fort Necessity. He made a journey over the mountains to treat with the squatters in person and offered either to sell at twenty-five shillings an acre or to give "leases of 999 years at the annual Rent of Ten pounds pr. Ct. pr. Ann." The land was leveller than was common in that mountain district and the soil good, some of it "very good." The tract had been bought, years before, for about one hundred dollars and it subsequently sold for twelve thousand, including of course the improvements made by the squatters and their successors. The men were Scotch and of the rigid sect which Washington called "Ceceders." They now conferred among themselves, tried to beat him down, and decided to "abide the Issue of the Law."[4] As to the fairness of Washington's terms it is no longer possible to judge, except by inference from his customary conduct, lacking as we do full knowledge of current

prices and of the value of the improvements. The probability is that he was strictly and austerely just—that what many would indulge in as kindness and liberality was rendered impossible to him by the fact that he was still in debt and in arrears for taxes. But there was a further and far larger reason for strict dealing. As he had so long foreseen, the tide of emigration to the West was swelling rapidly; it was of the utmost importance to multitudes of individuals and to the new nation that irregularity should cease and titles be respected. His *regularity* can scarcely have failed to serve as a precedent of value alike to squatters and lawful owners.

Hughes quoted Parkinson's description of Washington as a manager of slaves. "It was the sense of all his neighbors that he treated them with more severity than any other man." The salt herring he supplied for their food was "often badly cured."[5] True, Hughes concedes that Parkinson was a disillusioned gossip and cites testimony to Washington's kindness and liberality; but even so he does scant justice to his author's meaning. As to the food of the negroes Parkinson records this also: When travelling, Washington insisted that his servants receive the same fare as himself, and that tavern-keepers charge as much for it. That Washington abhorred slavery and was scrupulous in his care of his negroes is evident in a score of passages. Parkinson's purpose was merely to show that Washington was remarkably "regular" and "correct"—that is, honorable and punctilious in small dealings as in large—and that his natural spirit of command, increased by his long enforcement of army discipline, gave him a power over his unwilling laborers far beyond that of his easy-going neighbors. "To me," he concludes, "he appeared a mild friendly man. . . . I shall ever revere his name."[6]

Peculiarly repugnant, from the merely modern point of view, is Washington's use of corporal punishment in the army, of which much has been made of late. That he deprecated it as he did slavery is probable enough; but he was similarly powerless against it. It was an immemorial custom, fixed in the minds of officers and soldiers; to change it has required a gradual evolution extending through a century notable for progress in humanity. Washington had already a revolution on his hands and may well have agreed with Lincoln in preferring "one war at a time." In the Winter of Valley Forge a common soldier, George Ewing, recorded in his

diary without comment that a member of his company received "300 lashes" and another "250 lashes"—the latter on "Lordsday." The cause of liberty was at its lowest ebb; mutiny and wholesale desertion had been repeatedly imminent—the end of all things. And the culprits had deserted to the enemy in Philadelphia. The penalty might have been death. In his youth he had actually hung deserters when it was a question of protecting the frontiers against Indian butcheries. To-day, corporal punishment being forbidden, the punishment for such acts as threaten the lives of the loyal can only be death. We may leave it to the philanthropists to say which is the more humane.*

That Ewing continued to respect and feel kindly toward Washington is evident in a subsequent entry: "This day His Excellency dined with G Nox [General Knox] and after dinner did us the honor to play Wicket with us." [7] Wicket was common ancestor of baseball and cricket, and several instances are on record in which Washington played it with his men. As to his tenderness for the common soldier the evidence is clear and full. One sentence will be engraved upon our hearts so long as there are Americans: "Blood-stained footprints in the snow showed the course traversed by the 'Ragged Continentals' to Valley Forge." It is a note often sounded. "From my soul I pity those miseries, which it is neither in my power to relieve or prevent." "The patience—the fortitude——the long & great suffering of this army is unexampled in history." When at last, five years later, those sufferings were measurably relieved, his officers were threatening mutiny and sedition; yet, his ragged Continentals being at ease, he wrote: "This circumstance alone would make any situation tolerable to me." [8]

III

Of all this very little was publicly said, doubtless because it was commonly known or taken for granted; but so soon as the Jeffersonian revolt became vocal Washington's love of his fellow men was ignored and indeed belied. This love did not consist in declaring equalitarian doctrine, or in any courting of popular favor, being far more evident in public deeds than in public words. Fortu-

* In the admirable third volume of his *Life*, I find, Rupert Hughes presents this view with abundant documentation.

nately we are able to trace its development through contacts with Americans of all sorts in comparison with which those who proclaimed unbounded faith in the people seem cloisterally pale and aloof. At an age when Jefferson and Madison were poring over their books, he was in command on the Virginia frontier. His soldiers were ragged volunteers, draft-men too poor to buy exemption, wretched indentured servants, ex-convicts—the dregs of a society essentially aristocratic. If they had a few shillings they haunted the dramshops, rioting. When, as was so often the case, they were unpaid and even unclothed in the dead of Winter—Washington described them as "naked," and the word was scarcely an exaggeration—they deserted by squads. The frontier settlers were, in their way, no less delinquent. Not even self-interest could kindle their imaginations, rouse their patriotism. Touched by the misery of the deserters, they gave them food and shelter, then passed them on.[9] Avid of present profit, they cheated the army in the matter of supplies and horses. Washington's defeat in his first candidacy for the House of Burgesses was due to the resentment of profiteers whom he had burked and a tavern keeper whose bar he had closed for systematically debauching his soldiers.[10] His army was the spit and image of Jack Falstaff's—with an added touch of drama, even of tragedy. For it was all that stood between these purblind philanthropists, these joyous profiteers, and the burning of their homes, the savage butchery of their wives and children. Yet Washington's officers were Virginia gentlemen; and, with their help, he developed a regiment that fought bravely when Braddock's regulars fled. Unswerved by bitter experience, he recognized in these frontiersmen so many virtues that all his life he dreamed of their migrations, plotted and planned to hold them firm in allegiance to the American union.

In his contact with Yankee character there was a tragi-comedy not dissimilar. Charles Moore, whose knowledge of the byways of Washingtoniana is seldom at fault, remarks upon the "partiality" which "Washington often and unmistakably showed for" New Englanders; and he conjectures that it had its beginnings in his acquaintance with the wife of his amiable old friend William Fairfax, stepmother of George Fairfax. Deborah Clarke was born in Salem, and her extant letters "reveal a strong Puritan strain, relieved now and again by a tinge of humor." "She had a good opinion of herself and

was justified in it." She died when Washington was in his sixteenth year, but the impression made on him by her character may not have been weaker for that.[11] Whatever its origin, the "partiality" must have been greatly strengthened by the battles of Lexington and Concord. As Washington was leaving Philadelphia to take command of the army at Cambridge he heard the news of Bunker Hill. He is reported to have asked whether the militia fought well and to have been greatly relieved by the answer.

The contrast with the Virginia recruits of his boyhood was certainly striking. Yeomen fresh from the plow had been steady as the proudest troops of Europe. Here was a "common run" who thought for themselves and fought for themselves—constitutionalists and soldiers in one. The valor which he and his fellow officers had had to drill into the Virginia rag-tag and bob-tail, New Englanders possessed by nature! "His Excellency," wrote Nathanael Greene, "has been taught to believe the people here a superior race of mortals."[12] With such material to work upon, why should not the ideal of Cato and Brutus be realized in the modern world? In reply to the Massachusetts committee that greeted his arrival, he spoke of his wish to "emulate the virtue and public spirit of the whole province," the "firmness and patriotism" of which were "without example in modern history." *Modern* history, mind you! In republican Rome also, there had been virtue. His style and his thought were singularly free from the pseudo-classicism that marred the taste of his generation, in general so gracious and pure; yet countless utterances in the coming period of his disillusionment suggest pointedly that his hope had been to establish in the modern world the manly liberties of the Roman Republic.

He had reckoned without what John Adams called "those ideas of equality, which are so agreeable to us natives of New England," but which, in the form in which he encountered them, were certainly "very disagreeable to" George Washington.[13]

As raw material, the New England rank and file at first impressed him very favorably; they were "able bodied Men, active, zealous in the cause, and of unquestionable courage"—an opinion enthusiastically shared by his generals, even the usually captious Charles Lee. In the hands of a Cromwell, they might easily have rivalled the Ironsides. With too many of their provincial officers

the case was different. Being elected by their regiments they were, as Washington put it, "*nearly* of the same kidney with the Privates." Wilkinson said the same in his *Memoirs:* "The familiarity which prevailed among the soldiers and officers of all ranks" was so great that, "from the colonel to the private, I observed but little distinction." On one occasion a captain was found shaving a private on the parade ground. In moods of petulant exasperation, Washington attributed all this to sordid motives. "One of the principal objects of their attention" he wrote, was "to curry favor" with privates—with a view to future votes. With this, financial objects blended. "Notwithstanding all the public virtue which is ascribed to these people, there is no nation under the sun that pays more adoration to money." The Philadelphian Alexander Graydon, in his shrewdly observant *Memoirs,* gives an amusing example of this blend. "It was no unusual thing in the army before Boston for a Colonel to make drummers and fifers of his sons, thereby not only being enabled to form a very snug, economical mess, but to aid also considerably the revenue of the family chest." There can be no doubt of the truth of all this, but it need scarcely be said that the shrewd thrift of these yeomen who for generations had wrested a livelihood out of a granite soil was quite compatible with a granite idealism. Barbé Marbois tells of a Boston judge whom he saw carrying home from market a fish for dinner and Graydon gives us a glimpse into the psychology of such humility. "So far from aiming at a deportment which might raise them above their privates, and thence prompt them to due respect and obedience to their commands, the [officers'] object was, by humility, to preserve the existing blessing of equality: an illustrious instance of which was given by Colonel Putnam, the chief engineer of the army, and no less a personage than the nephew of the Major-General of that name. 'What,' says a person meeting him one day with a piece of meat in his hand, 'carrying home your rations yourself, Colonel!' 'Yes,' says he, 'and I do it to set the officers a good example.' " One may laugh; but the fact is that the practice of fraternal equality was as deeply rooted in Yankee nature as the theory of it was in the minds of first-family Virginians.[14]

It is beyond question, however, that the effect on army discipline was evil. "There is no such thing," wrote Washington, "as getting officers of this stamp to exert themselves in carrying orders into

execution." What they amiably practised, their men raised to a rigid principle. As late as the retreat through Harlem in 1776, two ensigns seized their muskets and refused obedience to their commanding officers on the equalitarian ground that they were "as good as any" of them and that "there was no one more than another who had the command." Haled before a court martial, the elected officers judged them guilty of *abusive language* and they escaped with a mere reprimand.[15] As Washington's aide, Moylan, wrote to him, such officers must "desire, beg and pray" their subordinates, "do brother, do my friend, do such a thing." Far preferable were "a few hearty damns, from a person who did not care a damn for them." It had not been thus at Bunker Hill. There the officers in command had, like Washington, served in the French and Indian war, side by side with British regulars in the atmosphere of military discipline, and were men of country-wide reputation and authority.[16]

New England equality resulted in this, that officers and men alike were slovenly and unkempt; drank and gambled and swore; blazed away with their precious powder at chipmunks and chickadees; went absent without leave to work on their farms yet drew full regimental pay. And, lacking the rudiments of discipline, they lost all sense of the crisis—could not be made to feel, as Washington observed, "that there is, or can be, danger till the Bayonet is pushed at their Breasts." This did not proceed "from any uncommon prowess, but rather from an unaccountable kind of stupidity in the lower class of these people which, believe me, prevails but too generally among their officers." Frequently they behaved as cowards, especially the officers, and had to be court-martialled. When cold weather came they dribbled away in a constant stream. There is no better soldier, it is said, than he who fights for hearth and home, and these men, when properly led, would give, as they had given, good proof of their mettle; but as the long, still gloom of winter settled on them the thought of those hearths filled them with homesickness—from which Washington suffered no less. In deserting, the men lifted their precious muskets, powder and bullets, the officers small sums from the ill-provided chest of the regiment. For honor like bravery is a product of discipline. Meanwhile the farmers about Cambridge charged extortionately for firewood to warm those who remained and for food to nourish their strength. As between repub-

lican Romans, how does a horse-trading Virginian differ from a Yankee artist in nutmegs?

Bitter as had been Washington's experience with his tatterdemalions of the Indian frontier, his heart must have hungered for the fellow officers, Virginia gentlemen, who had labored to drill them into shape. Making what he called "a pretty good slam" among the New Englanders, he wrote to the President of Congress that it should have been rendered unnecessary by "a Sense of Honor and the Interest of their Country." General Greene, Yankee yeoman though he was, lamented a lack of "the sentiment of honor, the true characteristic of a soldier." General Montgomery, writing to General Schuyler from Montreal, used and italicized a word often in the minds of others. "I wish some method could be fallen upon of engaging *gentlemen* to serve. A point of honor, and more knowledge of the world to be found in that class of men, would greatly reform discipline." Only after nine months more of heart-breaking experience do we find Washington using the dubious word, and then he so defines his meaning as to preclude the idea of snobbery. He urges Congress to make the conditions of service such as will "induce gentlemen and men of character to engage"; until "the bulk of your officers is composed of such persons as are actuated by principles of honor and a spirit of enterprise, you have little to expect from them." [17]

IV

Wilkinson remarked that in the South "civil subordination" was more "conspicuous" than military discipline among the Yankees.[18] But so was it among the Yankees! In comparison with Virginia, to be sure, New England was broadly republican. Laborious thrift and sturdiness of character were wide-spread, and arbitrary distinctions were few. But equality was less a social theory than a spiritual fact. It did not imply any lack of respect for knowledge of the world of affairs and for educated ability—quite the contrary. The West Indian merchant was honored for his stately mansion, his richly embroidered gown and turban, but more so for his intelligent enterprise. Still more honored was the minister of God, austere and simple. Genuine authority still commanded "civil subordination." But with the Revolution a new spirit became manifest. Philoso-

phers like John Adams were slow to perceive it and politicians like his kinsman Samuel even slower, but the death-knell of the ancient New England republicanism was sounding in the camp about Boston. Henceforward, ambitious men would raise themselves to office by such kindly acts as shaving the common run and proclaiming a reverential awe before them.

In Virginia the same process was at work; but, by a paradox "unaccountable" as Washington found the "stupidity" of Yankees otherwise shrewd enough, the ferment proceeded from the opposite end of a social scale unusually high and unusually artificial. An aristocracy based on slavery proclaimed its revolution upon a principle which was not only opposed to that of English liberty, and indeed of the liberty of Ancient Rome, but was like a mine of dynamite in its own foundations. When George Mason formed an officers' training company, he saw to it, in the traditional Virginian manner, that it "consisted entirely of gentlemen"; yet he declared in a homily to it, and later in the Virginia Bill of Rights, that "all men are created equally free and independent."[19] Jefferson, echoing this idea in the Declaration of Independence, threw still greater emphasis on equality.

It is a catching phrase, "all men are created equal," and it worked powerfully to inspire the people as a whole with zeal for the Revolution. But it made difficulties for the generals at Cambridge, as it eventually did in civil life for the leadership and authority of Virginia. Throughout the nineteenth century, the development of our Constitution was determined by the fact that a spirit of disordered liberty, paradoxical in republican New England, caught up and exploited the equalitarian dogma, equally paradoxical in the aristocratic South.

Washington's mood was unclouded alike by the Virginia theory and the new practice of Massachusetts. He knew from bitter experience that to the making of an officer—or a leader of any sort—character, traditions and education are indispensable; and he knew that, these granted in the leaders of a nation, competent soldiers and citizens can be wrought out of the common run. Never in his life did he admit that all men are created equal or that the voice of the people is the voice of God; never did he speak of his fellow citizens as—other than he had found them.

In a generation in which even "the party of Washington and Hamilton" professes unbounded faith in the common run, in "government of the people, by the people, for the people," it may be made to appear that the Father of his Country was an aristocrat profoundly contemptuous of his fellow men—but only when the point of view is political, and even then one eye squints shrewdly toward results at the polls. In affairs of daily life we are frankly realistic, as he was. When the modern psychologists tell us that less than five per cent of us, by and large, have "the ability to make a superior record in college," and that only nine per cent more are capable of "an average record" in college, we are so far from crying out against them that we seize upon their mental tests to sift employes in office and factory.[20] If Washington's insistence upon knowledge of the world, upon training of the mind and the imagination, upon manly energy and the gentlemanly code of honor, betray aristocratic prejudice and contempt for the American people, then it is quite insufferable that our Officers' Training Camps prefer college men, and insist that recruits shall be of a mentality capable of a college education; that West Point and Annapolis lay no greater stress on technical education than on gentlemanly conduct. Some words are most useful unweighed. Those who most loudly proclaim "democratic equality" and "faith in the common people" are the first to insist that the American officer is a gentleman.

Once we cut loose from the thrifty phrase of the politically minded, the truth is unmistakable. Washington's knowledge of the people was broad and his regard for them was deep. Throughout his life he went among them, hunting and exploring; as President he made frequent tours, studying their needs and the trend of their thought. His interest in popular education was no less ardent than Jefferson's and took on a peculiar quality from the fact that he thought of himself always as one of the uneducated. His solicitude for the schools of Virginia and for a national university is expressed in many eloquent and noble passages, and in liberal bequests. His eye for merit in whatever station was quick and impartial. Nathanael Greene had begun life as a laboring farmer and blacksmith and, in spite of much intelligent reading, remained a simple New England republican; yet Washington welcomed him as a friend and gave full scope to his military genius. With Mrs. Greene he

danced delightedly, as indeed with ladies of much humbler origin, once for three hours without stopping. On his tour of the South he turned aside to call on her in her widowhood and, as he recorded in a phrase that gives a rare glimpse of intimate, familiar affection, "asked her how she did."[21] In his day, we must always remember, the glad hand was not yet *de rigueur,* even among Jeffersonians; nor should we forget that Washington had contacts with people of all sorts and conditions as no other American has ever had, not Roosevelt, that even Lincoln was no more widely reverenced and loved.

Solid and unswerving as was the realism of Washington's mind, it was touched by no taint of snobbery; realism rather lent substance to idealism and refined it.

V

In his constitutional theory the two are indistinguishably blended. Fortunately we have evidence that, from a very early date, it had no touch of aristocratic bias, being based on a vigorous championship of the sovereignty of the whole people. His British antagonist in Boston—his old comrade of the Braddock campaign, Thomas Gage—scorned him as a rebel against his King. "You affect, Sir," Washington answered, "to despise all rank not derived from the same source with your own. I cannot conceive one more honorable than that which flows from the uncorrupted choice of a brave and free people, the purest source and original fountain of all power."

A vigorous national union broadly based on the will of the people —that is the very essence of our Constitution. To arrive at the systematic details of Washington's republican theory, we must search the minds of his better educated and more confidently intellectual associates, John Adams pre-eminently.

BOOK THREE

IDEOGRAPHIC

CHAPTER VI

UNBALANCED JOHN ADAMS

I

Mellen Chamberlain, historian only by avocation from bar and bench, once wrote of John Adams words of superlative praise: "He more widely, more profoundly, and, unless present indications prove fallacious, more permanently, impressed the political institutions of this country than any other man who has ever lived in it. . . . Fifty millions of people to-day live under a constitution the essential features of which are after his model. . . . Until constitutional government is overthrown on this continent, the work of the GREAT CONSTITUTIONALIST will endure."[1] For almost half a century that judgment lay perdue. In 1927, Charles Warren, distinguished author of *The Making of the Constitution* and *The Supreme Court in United States History,* warmly and explicitly confirmed it. He added that Adams was "the first *nationalist* among all early American patriots."[2]

A demurrer may be registered in favor of Washington, who in his own way stood for national union quite as early—for independence and a republican constitution quite as vigorously and effectively. But the medium in which Washington dealt primarily was deeds, not words, and in the actual labors of constitution-making words are the primary instrument. In the systematic formation and expression of ideas, Adams was, beyond a doubt, the Great Constitutionalist, and his thought seems to have been a decisive factor in shaping the ideology of the unstudious, uncerebral Washington.

II

Both Judge Chamberlain and Mr. Warren spoke of Adams as a statesman whom historians and biographers have misrepresented or failed to appreciate duly, as a great man grievously wronged. In his brief heyday he stood next to Washington as statesman and patriot, being preferred as President to Hamilton, Jefferson, and Madison; yet ever since he has been somehow under a cloud. The other great

ones have been much be-statued, but is there any American city in which the people have cared to raise a memorial to John Adams? It may be added that even his two retarded champions fail to give any adequate account of the constitutional principle—a balance between the wisdom of the few and the will of the many—which it was his lifelong passion to expound and establish and which became basic in the constitutional thought of Washington. It does not even appear that they had read with care Adams's three volumes on Government.

One reason for this universal neglect is political. Adams's crushing defeat in 1800 meant the triumph of ideas utterly alien to him. True, as regards outward form the "balance" is firmly fixed in the American constitutions—in forty-nine of them; but thenceforth to the present the Jeffersonian principle has ruled our thought—ruled our action also, except as it is determined and limited by the form of our constitutions. Adams was without a party and has remained so, though his were the ideas for which Washington stood and should still stand. Federalists hated him because his defeat was the downfall of their party, and they bent their misguided energies toward the rehabilitation of Hamilton, whose political endeavors were as warped as his financial structure was righteous and unshakable. The Jeffersonians hated Adams—and belied him, as they still do—because he stood stoutly for the theory of the republican balance, which was radically opposed to their dogma that all men are created equal. Since the middle of the nineteenth century "the party of Washington and Hamilton" itself has found it expedient to "trust the American people." In lip service certainly, the Jeffersonian principle has triumphed over the republican form. Adams and Washington merely loved the American people—and braved them that they might make them great.

There is, however, another and perhaps more powerful reason for Adams's disrepute—his rumbling, bumptious vanity, touchy, diffuse and turgid, which disgusts the ego in all of us and dismays the most patient reader. Yet to the lover of the mundane comedy—tragi-comedy in this case—the situation is not without its lure. Certainly the avenue of approach to Adams's Works, and to the constitutional ideas of Washington, is a knowledge of that preposterous and heroic man.

From early youth John Adams acknowledged the corn; with a disgust surpassing our own he foresaw what it portended to his career and nerved himself to eradicate it. "Vanity," he writes in his diary at the age of twenty, "is my cardinal vice and cardinal folly; and I am in continual danger, when in company, of being led an *ignis fatuus* chase by it. . . . The love of fame naturally betrays a man into several weaknesses and fopperies that tend very much to diminish his reputation and so defeat itself." Self-criticism in this vein is continuous. He sees clearly that the nobler aim, and the more politic, is to make himself not so much admired as loved—which he always was by the few who really knew him. Was ever diagnosis more candid and clear, the hope of a cure more promising? Yet after five years, in 1760, he holds up this picture to his own abhorrence:

> I talk to Paine about Greek; that makes him laugh. I talk to Sam. Quincy about resolution, and being a great man, and study, and improving time; which makes *him* laugh. I talk to Ned about the folly of affecting to be a heretic; which makes him mad. I talk to Hannah and Esther about the folly of love; about despising it; about being above it; pretend to be insensible of tender passions; which makes them laugh. I talk to Mr. Wibird [a Reverend gentleman of parts] about the decline of learning; tell him I know no young fellow who promises to make a figure. . . . I talk to Parson Smith [his future father-in-law] about despising gay dress, grand buildings and estates, fame, etc. . . .
>
> I have insensibly fallen into the habit of affecting wit and humor, of shrugging my shoulders, and moving, distorting the muscles of my face. . . . These are faults, defects, fopperies and disadvantages. Can I mend these faults and supply these defects?

He never could, except superficially. Not John Adams but his bumptiousness was monumental. He could give balance and poise to a nation spreading abroad on a continent and destined to number hundreds of millions, but for himself he seems to have preferred in his heart the pride that proverbially falls. Where his beloved country and countrymen were concerned, his intellect was luminously clear; his imagination, as warmly colored as it was realistic, foresaw every danger and built solid the bulwark against it; his courage, bordering always upon recklessness, was never really reckless and thus surmounted most crises. But in work-a-day moods, and especially after his heroic but disastrous presidency when he lay "ditched on his farm at Braintree," he could not deny himself the delights of

bluster and braggadocio—"rodomontade" and his "*grognard* vein," as he indulgently called it. Especially he felt self-assertive against the rival fame of those other great ones—Franklin and Washington, Hamilton and Jefferson, even Tom Paine. It is a character that appeals irresistibly to that Comic Spirit described by George Meredith, in which sympathetic laughter blends with ironic satire. If Meredith had taken such a one for protagonist in *The Egoist,* then indeed we should have had a novel. In American history and biography, "the vigilant comic" nods. How shall one admire such a man—let alone laugh at him, and *with* him? To the mass of mankind, vanity is comic in fools, but becomes obnoxious in proportion as there is warrant for it.

III

Most blessed of all Americans with illustrious progeny, John Adams was of yeoman stock and preserved to the last, for all his intellect and culture, broad traits of the yokel. When courts were closed under stress of the Revolution he wielded scythe and pitchfork, "mowed back" the fragrant hay in the torrid hay mow, "frolicking with my workmen."[3] And this was with no thought of the effect upon bucolic voters but only out of regard for his growing family, threatened with poverty as result of his patriotic services. His filial biographer notes that in a century and a half of American ancestors—all "laboring farmers," John Adams's father being "a small farmer of the middle class"—there is record of one silver spoon; and he remarks with humorous pride that Benjamin Franklin was in middle years when the seemly Deborah induced him to lay aside the pewter with which he had taken his breakfast porridge. The Harvard class lists of those days were arranged not alphabetically but in the order of social standing. The name of John Adams, which would now "lead all the rest," save a possible Abou Ben Adhem, was well down in the list. The fact is of importance as showing that at that era, even in reputedly democratic New England, Americans had something of the "deferential" mood which Walter Bagehot notes as essential to the functioning of the English Constitution. With all his personal pride and vainglory, in constitutional theory John Adams was deferential. When there was question of who should be President of the Commonwealth of Massa-

chusetts under the Constitution he had written for it, he could see only John Hancock and James Bowdoin, whose patriotism and political ability were reinforced by wealth and position.

His courtship and marriage also illustrate the curious New England blend of moral equality and social distinctions of which he became exponent. He and his neighbors understood and believed in the truly well-born—a fact responsible alike for the character and ability of his progeny, and for his own political ruin. He aspired to the hand of Abigail Smith, descendant of a long line of colonial worthies, and daughter of no less a personage than the village parson. Grandmother Tyler gives the weight of her authority to the story, long exploited by political malice, that Adams's father was "a shoemaker in the village," adding however that though poor he was "a worthy man." She records that while the horses of the suitors of Abigail's two sisters "were well housed and fed from the ample stalls of the reverend host," John's horse "must stand tethered to the post all evening." [4]

Charles Francis Adams says nothing about village shoe-making and gives a far more interesting explanation of the prejudice against this suitor. He was a lawyer. Up to the Revolution the clergy were no less spiritual than social leaders, and Adams had had thoughts of joining them. His diary records grave doubts as to the law, doubts whether he could practise at the bar and remain an honest man and good Christian. Here again we see the closing of one epoch and the opening of another radically different. However "economic" the basic cause of the Revolution may have been, the ground on which it was waged was constitutional and legal. It was fortunate for John Adams, more fortunate for his country, that he chose the law. Parson Smith seems to have had an inkling of this, and no small fund of amiable humor. To local gossip as to his daughter's supposed mesalliance he replied with a sermon on a text alluding to the law, albeit the law rabbinical. "For John came neither eating bread, nor drinking wine, and ye say, *He hath a devil.*" [5] Observers to-day note a similar shifting of influence from the law to a vocation rapidly becoming professional. Scientific industry has risen to posts of prominence, even to the Presidency.

IV

In contemplating John Adams's lack of balance it is only fair to take note of subconscious egos—those potential personalities of youth which the concentration and discipline of practical life starve and submerge, but never quite destroy. The leaders in our Revolutionary and constitutional period are easily the ablest and most widely varied constellation in American history and have seldom if ever been outshone in the history of the world; yet no one of them was so richly and variously endowed. The call Adams felt to the ministry was indubitably powerful and sincere. Morally and in religion he was a Puritan of the first water. In his ditch at Braintree he was consoled by the thought that, amid all the slanderous lies from which he suffered, never once had his rectitude been assailed. But the thought was checked by a sudden recollection that appealed to his boisterous humor. "I had forgot," he added in a marginal, "the story of the four English girls whom General Pinckney was employed to hire in England, two for me and two for himself." [6] For the benefit of his sons he recorded that his continence was unblemished, though he confessed to a disposition highly amorous. His Christianity was exemplary, at least from the modern point of view. He loved his fellow men for the good that was in them and his God as the ideal of virtue and of power. His belief in personal immortality was as firm as Franklin's, firmer far than Jefferson's. Yet his creed verged upon the Socinian, primarily Unitarian, interpretation of the Gospels, and he well knew that he had neither the tact nor the guile to make mere goodness and piety prevail against the theologic rages of a New England congregation.

Poet too he was at heart, and man of letters. The trait most commonly ascribed to him by those who knew him, next to vanity, is imagination; even Hamilton, amid all his detractions, conceded to him this great gift. In his sight a book was not mere printed paper but a vista of life and fate seen through the medium of a soul. He records in his diary the titles of volumes on the shelf of a wayside inn or in the cabin of a sea-captain—chance and trivial collections, but yet books. To buy the volumes he craved he spent his children's patrimony—or so he reproached himself [7]—and neglected to provide fittingly for the retirement of an ex-President; but more than

once the power of knowledge thus gained gave the right direction to the Revolution and to the constitutional fabric of his country.

Yet he was least of all a book-worm. Innumerable are the passages of his diary in which he reproaches himself for day-dreaming, for his sociable love of his fellows, for his thraldom in the charms of this or that young girl. Not once in his life had he "read a whole day." During his turbulent presidency he was aroused one morning at Braintree by the firing of cannon in Boston harbor and arose at four; but what he dwells upon in his diary is his joy in "the charm of earliest birds." "Their songs were never more various, universal, animating, or delightful." For his own acres, gray with rocks and decked with the velvet green of cedars, he had a love surpassing. All his life he dreamed of landscaping them with walls and tree plantations; of conducting the brook to a broad hollow by his house; of making "great improvements" on Penn's Hill by converting its springs and swamps into ponds and "descents and falls of water." In a letter to Mrs. Adams, written when his election as President was at hand, his love of nature blends humoresquely with his passion for the constitutional balance.

> I covet the harp of Amphion. What would I not give for the harp of Amphion?
>
> In my walks in the Cedar Grove, in the Rocky Run, and on Penn's Hill, I should play upon my lyre, and the merry rocks would dance after me and reel into walls. This would be to me a very pleasant and profitable private amusement. But there is another use I could make of my instrument in my public employment, more grateful to a benevolent heart. . . . In no age was it more wanted.
>
> Amphion taught contending kings
> From various discords to create
> The music of a well-tuned state;
> Nor slack nor strain the tender strings
> Those useful touches to impart
> That strike the subject's answering heart,
> And the soft, silent harmony that springs
> From sacred union and consent of things.
>
> Alas! I am not Amphion. I have been thirty years singing and whistling among my rocks and not one would ever move without money. I have been twenty years saying, if not singing, preaching if not playing:—
>
> From various discords to create
> The music of a well-tuned state,

but an uncomplying world will not regard my uncouth discourses. . . . What a mortification to my vanity! What a humiliation to my self-love! The rocks of the House of Representatives will not dance to my lyre.[8]

A scientist he was too, at least in power of the imagination. In 1783 he suspected the oxidation of the blood and divined the principle of the Bessemer converter.

What is it in the air which burns? When we blow a spark with the bellows, it spreads. We force a current of air to the fire, by this machine, and in this air are inflammable particles. Can it be in the same manner that life is continued by the breath? Are there any particles conveyed into the blood of animals through the lungs which increase the heat of it? . . . The external air drawn into the lungs in breathing through the mouth or nostrils, either leaves some particles behind in the lungs or in the blood, or carries some particles off with it. It may do both; that is, carry in some particles that are salubrious and carry out others which are noxious. . . . I suspect that the health of mankind is much injured by inattention to this subject.[9]

Priestley had lately noted analogies between respiration and combustion, and had produced "dephlogisticated air"; and, the year before, Lavoisier had first used the word oxygen.

How far the following adumbrates our present knowledge of electricity let the physicists declare; as to its imaginative grasp of the problem there can be little question.

The loadstone is in possession of the most remarkable, wonderful and mysterious property in nature. This substance is in the secret of the whole globe. It must have a sympathy with the whole globe. It is governed by a law, and influenced by some active principle that pervades and operates from pole to pole, and from the surface to the center and the antipodes. It is found in all parts of the earth. Break the stone to pieces and each morsel retains two poles, a north and a south pole, and does not lose its virtue. The magnetic effluvia are too subtle to be seen by a microscope; yet they have great activity and strength. . . . Has it been tried whether the magnet loses any of its force in vacuo,—in a bottle charged with electric fire, &c.? . . . It would be worth while to grind the magnet to powder and see if the dust still retained the virtue. . . . The primary springs of nature may be too subtle for all our senses and faculties. I should think, however, that no subject deserved more the attention of philosophers.[10]

V

It was, however, with regard to the destinies of the American colonies that his imagination was most realistic, powerful and warmly colored. When he was still under twenty (October 12, 1755), dur-

ing the excitement of the war against France, he outlined in a letter to a boyish friend the future greatness of our country, the necessity of union to achieve it and of sea power to maintain it; and he foresaw the means which England actually employed to prevent all this. The passage is especially noteworthy as pointing the contrast between his cerebral and speculative mind and the mind of Washington—who had then for two years been dreaming and laboring toward union in border warfare against "the turbulent Gallicks."

> All that part of creation which lies within our observation is liable to change. Even mighty states and kingdoms are not exempted. . . . Soon after the Reformation, a few people came over into this new world for conscience sake. Perhaps this apparently trivial incident may transfer the great seat of empire into America. It looks likely to me: for if we can remove the turbulent Gallicks, our people, according to the exactest computations, will in another century become more numerous than England itself. Should this be the case, since we have, I may say, all the naval stores of the nation in our hands, it will be easy to obtain the mastery of the seas; and then the united force of all Europe will not be able to subdue us. The only way to keep us from setting up for ourselves is to disunite us. *Divide et impera.* Keep us in distinct colonies, and then, some great men in each colony desiring the monarchy of the whole will destroy each other's influence and keep the country *in equilibrio.*[11]

The fear of "great men in each colony" may seem chimerical to a generation accustomed to the submergence of the States under national prestige and authority, but it was prophetic of the chief obstacle to the adoption of the Constitution of 1787. All the federalist leaders, and notably Washington, apprehended above everything the influence of "interested men in the States" who saw that under a strong national government their eminence would be dimmed. The final phrase is Adams's earliest statement of the principle of the balance—though it is here conceived as the means of frustrating united strength, not of evoking

> . . . the soft, silent harmony that springs
> From sacred union and consent of things.

Among his own "countrymen," as the people of the several colonies called one another, this richly endowed nature, this clear-visioned intelligence, shone undimmed—thanks largely, no doubt, to the youthful castigations of his "cardinal vice and cardinal folly." They knew him for a burning patriot and champion of liberty who

yet stood four-square for truth and justice as the only true basis of a nation's greatness. At the very period when the "brace of Adamses" as Governor Shirley called them, were leading the rebellion in Massachusetts, Captain Preston appealed to lawyer John to defend him and his soldiers of the Boston "massacre" from the charge of murder. The Colony was seething with rage, fed by false propaganda. Adams knew well that his future was at stake, professional and political; but he yielded to the obligation of justice and honor. For a trifling fee he pleaded the cause of the British soldiers with his utmost ability and obtained a justly lenient verdict. In his own "country" the solidity of his reputation saved him from any immediate consequence; it was only when he became prominent in national politics that he was charged with having been bribed to betray his countrymen by British gold.

As regards the greater financial returns of his fellows of the New England bar his diary and his letters show certain rumblings of jealousy. No lawyer in America, he said, had a larger practice than he had, or received smaller fees. But he seems never to have abandoned his ideals of republican simplicity and professional service. As to his political associates in Massachusetts, if there was ever a twinge of jealousy no record of it remains. For his cousin Sam he retained a warm regard, in spite of his leaning toward the heresy of government by a single chamber and in face of his ultimate apostasy to Jeffersonian democracy. In the era in which the great Virginia democrats were supreme he labored steadily to assert the rival claims of the Revolutionary heroes of New England, even of the gerrymandering Elbridge Gerry and the absurdly vain John Hancock—whose signature has also become a byword.

He was almost equally happy in his relations with the Continental Congress, which gave him opportunity for public services of the highest, and justly appreciated them. The reputation of that body, which few have cared to sing, was always dear to him. His grandson and future biographer learned this at the age of eight. Perceiving from accounts in treasured newspapers that the journey of the Massachusetts delegation to Philadelphia in 1774 was in the nature of an ovation, the boy expressed surprise, and thus, as he recorded with the emphasis of understatement, "incurred the indignation" of his grandfather. It was his only experience of the grand-paternal rage.

The Great Ancestor was as kind at heart, and as ready to acknowledge his rodomontade, as he was explosive; and, in a really admiring and affectionate family, one early learns not to touch off the dynamite fuse. Charles Francis deposes that he "never forgot the reproof." Adams's diary during his service in the old Congress, and his letters to Mrs. Adams, deserve to rank with the Autobiography of Franklin, being full of warmly human observations rendered acute by his passionate interest in the cause of freedom—and by his protruding sense of his own importance as affecting and affected by the importance of others.

VI

In the little old New York of 1774 the diners and winers seem to have been much of the modern stripe. "With all the opulence and splendor of this city there is very little good breeding. . . . They talk very loud, very fast and all together." They still do! "If they ask you a question, before you can utter three words of your answer, they will break out upon you again and talk away." An intellect conscious of its powers, a patriot conscious of his eminence, could scarcely be more infuriated by the incredulity of a diminutive grandson. At Philadelphia, conversation seems to have been better, and more distinctive of the epoch. Mr. Willing gave "a most splendid feast again—turtle and everything," and was "the most sociable, agreeable man of all." A judge of the Pennsylvania Supreme Court, he told of a law declaring that, in the months with no *r,* oysters are unwholesome, and decreeing that "if any were brought to market they should be forfeited and given to the poor." The wording of that law is of a date when ultra-Federalism was politically possible: the amusement it caused to the turtle-fed presaged the coming of the era of social consciousness. Adams's relish of it, at once sympathetic toward the poor and humorous, is highly characteristic of his comprehensive nature and his solidly balanced intelligence.

Beneath these festivities was a sense of great events impending. Adams's distaste for New York arose partly from the fact that he sensed there a strong Tory sentiment. Pennsylvania was similarly divided. As the Massachusetts men drew near to Philadelphia, a company of fellow delegates to Congress and local Sons of Liberty—patriots undoubted—drove out to meet them and warn them against

coming out boldly for independence.[12] Over the subsequent turtle and terrapin and madeira, we may be sure, the subject was much mooted. Even Washington had misgivings as to the northerners, which he discussed with them. Probably a majority of patriots in the middle and southern colonies feared, scarcely less than the Tories, the so-called "levelling spirit" of New England politics.[13] So deep was ignorance of sister colonies, so jealous their mutual distrust, that, as the army of Yankee yeomen assembled about Boston, a wide-spread apprehension arose that, in the elation of victory over England, it would "give the law to the Southern or Western gentry."[14] Here was a situation to be met only by patience, moderation and high diplomacy.

The simple truth is that those earlier assemblies of the statesmen of America were not war congresses but peace congresses.[15] The tyrannous purpose of George III was mainly unsuspected; he was still revered for his moral character and his diligent attention to the affairs of the Empire. What American patriots protested against was a scandalously corrupt Parliament and a usurping Ministry; they were generally ignorant of the fact that the corruptions were financed in the main, and the usurpations inspired by, a monarch determined to restore the ancient but now obsolescent prerogatives of the throne.[16] For months after Washington took command of the Revolutionary army, he uniformly referred to his opponents as the "ministerial" forces, unwilling to admit that he was in insurrection against his King. In the view of the congressional majorities of 1774 and 1775 it was still possible to redress all wrongs without ceasing to be British subjects; they were for "dutiful and humble" remonstrances to the Crown, made emphatic by a trade boycott which, in the vain hope of intimidating commercial England, prevented our importing material for the inevitable war. Least of all did they think of founding the great world state of which John Adams had dreamed as a boy. When the crisis came not a few of them, notably the very able Joseph Galloway of Pennsylvania, revealed themselves as Tories. John Dickinson, whose *Letters of an American Farmer* had been widely acclaimed in 1768 as a clarion-call to freedom, now opposed a declaration of independence so vigorously as to compromise his character as a patriot. When it came to fighting, he served in the ranks, though of Quaker sympathies

and affiliations; yet he never regained his standing in the patriot party. Even John Jay and Robert Morris wavered painfully before taking the ultimate plunge.

Not so John Adams. As he had foreseen in 1755, England attempted to rule by dividing the American leaders. Those who stood boldly for independence it proscribed as traitors. The humble petitions of those still loyal it graciously received—and answered them by unofficial advances that came to nothing and were meant only to beguile. So successful were these tactics that even in the Massachusetts delegation, as John Adams notes, three out of five—Hancock, Cushing and Robert Treat Paine—leaned "toward Mr. Dickinson's system, or at least chose to be silent." The fourth, Samuel Adams, "was irresolute"; he "spoke rarely in Congress, and never entered into any extensive arguments, though when he did speak his sentiments were clear and pertinent and neatly expressed."[17] But John Adams did not stand alone, far from it. His own delegation was probably less lukewarm than he described it, looking back from his ex-presidential ditch at Braintree; and from the outset he had full sympathy from leading Virginians, notably Washington. But he was unquestionably the wheel-horse in the drive for a declaration of independence. He worked steadily, tirelessly and in the main tactfully; and in his statesmanlike purpose he was eventually successful. The situation was peculiarly complicated and throughout he had the touch of a master statesman. But the first result of his labor was to give him a national reputation for blazing indiscretion and absurd egotism; and, in the end, owing to a situation at once ironic, instructive and not a little tragic, he saw the glory of his achievement fixed for all time on a Virginian who had done little indeed for the cause.

A strange similarity between Massachusetts and Virginia, and a difference which was to become even more striking, now begin to come into prominence. The two colonies then stood foremost both in wealth and in population. They were similarly ardent in rebellion and almost equally fortunate in great leaders. They had both an economic incentive. In the North, vigorously expanding commercial enterprise, the chief source of wealth in a land of long winters and stony soil, was vexed and frustrated by arbitrary and stupid taxes. The Southern planters, cursed with slave labor and struggling

with a soil subject to erosion and exhausted by incessant crops of tobacco, were almost hopelessly in debt. British merchants drove hard bargains yet encouraged the careless, pleasure-loving victims to mortgage their future, while a selfish ministry was blocking the development of the western lands which were their only hope of eventual solvency.[18] Both Massachusetts and Virginia regarded this clash with the mother country as involving a fundamental constitutional question; but as yet they seem scarcely aware that a similar clash between themselves was involved in the fact that the South was, and intended to remain, agricultural, whereas the North was as eagerly, and more powerfully, commercial.

The difference of which they were chiefly aware was social and political. New Englanders were still, in the true sense of the word, quite the reverse of democratic; but the broader diffusion of property, of intelligence and sturdy independence of character, made possible a high degree of that equality which John Adams described as "an equality of knowledge, wealth and power" among "all orders of citizens." Very curious, from the modern point of view, is this "equality" that went hand-in-glove with clearly recognized "orders of citizens"—a balance of class against class. As Charles Francis Adams expressed it, "With more of admitted distinctions than at present, there was a more general equality."[19] The "Goodman" farmer, the "Mister" tradesman and mechanic, easily maintained his dignity before the merchant or large landowner who were addressed as Esquire; but it was a part of that dignity to treat the Squire with all due deference. The highly educated and well-to-do, especially ministers and lawyers, were acknowledged leaders, but only as distinguished by character and ability and as standing for the interests of the community as a whole. The lowliest was free to rise, and often did rise, to high estate. Not even in republican Rome had there been a love of free institutions so pure, so intelligent and so widely diffused. A part of the strength of the Revolutionary spirit in the North lay in the fact that it had a broad economic basis; but it is a fact no less important that its leaders were as disinterested as they were able. John Adams sacrificed his professional livelihood. His cousin Samuel was so far from having an economic basis that when he went to Congress his friends subscribed to buy him a decently presentable coat.

Virginia was as instinctively aristocratic as Massachusetts was republican. It was ruled, as if of divine right, by great landowners who regarded themselves as descended from the English aristocracy, and largely were so, and who in their life and sports imitated and indeed exaggerated the "home" aristocracy. Estates were entailed, were managed by paid overseers and worked by black slaves and white indentured servants scarcely less disclassed. Sons were preferably sent to England to be educated. When they returned they gave themselves over to fox-hunting, horse-racing, cock-fighting, deep drinking—and, still true to their English prototypes, to patriotic service. Never was an American community more pleasure-loving or richer in leaders of ability and power. But the puritan leaven of New England, its intense spiritual conviction, was commonly lacking. The prevalence of slavery cast a stigma upon all labor of the hands. A class of laboring farmers, virtuous and independent, had begun to emerge in the mountainous backlands but these were kept in rigid political subordination. As John Adams observed, "the condition of the common sort of people" in the South was "more oppressed, degraded and miserable than that of the negroes." He gave as receipt for making a New England in Virginia: "town meetings, training days, town schools and ministers" —all grotesquely impossible.[20] Yet in this agricultural and aristocratic community the stand for constitutional liberty was as firm as in Massachusetts, though of a nature significantly different. Virginians were bent upon maintaining that an Englishman in America was as good as an Englishman in England—especially an English gentleman. Some few of them indulged in "speculative" ideas of equality and natural rights, and courageously proclaimed their opinions; and these, by sheer force of genius, were leaders from the start and foregathered in the Continental Congress with the homespun Massachusetts republicans.

Among them were Richard Henry Lee and Thomas Jefferson. Equalitarians in theory, their manner of life, even their minds, were tinged by their aristocratic surroundings. They had no clear sense of the realities of popular self-government, so often sordid and disillusioning. Yet they were thoroughly sensible of abuses in the Old Dominion, Jefferson especially—unequal representation, slavery, entail, religious discrimination. In its primary impulse this liberalism

was native to our race: ideas and phrases were mainly derived from the school of Harrington and Locke. It was only after the French Republic was established that statesmen in Virginia were swayed by the constitutional principles of the French Revolution. Yet, so far as ideas go, and especially phrases, Virginia aristocracy from the outset nourished a spirit which was more "levelling" far than the native and orderly republicanism of New England, and which ultimately, when embraced by unlettered and insurgent poor whites, had repercussions undreamed of by First Families and First Statesmen. In this respect Virginians resembled curiously those aristocrats of France who fomented popular revolt in ruffles and laces, stimulated by ideas and by tea imported from across the English Channel.

There was also George Washington, whose temper from the first was at one with the most radical but whose ideas appeared imperfectly in what he said, though luminously in what he did. In the Virginia Convention of 1774 he had declared: "I will raise one thousand men, subsist them at my own expense, and march myself at their head for the relief of Boston."[21] In that heyday of oratory, the speech was laughingly acclaimed as the acme of eloquence. At Philadelphia, Washington became an orator quite without words. Among those sober civilian delegates, almost half of whom were lawyers, he appeared, when the moment for decision came, in his colonel's uniform.[22] That was his declaration of independence, and of war—the only bit of self-emphasis recorded since as a youth he donned his scarlet-and-white on his journey of state to Boston. Of his constitutional ideas we have no clear record—except that, preeminently among the great Virginians, he had a high regard for the energy and the character of the New England republics, and looked to them as the mainstay of revolution.[23]

It was the purpose of John Adams and of those who saw with him to twist this peace congress to open and systematic resistance. Not that he was a rebel at heart like his kinsman Samuel—or, with a difference, like Patrick Henry and Jefferson. He was rather of the mind of Franklin and Washington, who loved the true England and its institutions of freedom; who never, even in the face of bitterest contempt and injustice, faltered in the belief that the highest interests of the two nations lay in amity and co-operation; yet who saw as a clear reality that the best traditions of the ancient stock

could be preserved only by political separation. To them, independence was not so much desirable as inevitable, and therefore only to be declared forthwith. Scarcely less than Washington, John Adams is Father of his Country; and they two with Franklin are the primal source of the political concept that to-day, tardily but effectually, unites the British Empire.

VII

But in the Continental Congress the issue was narrow and immediate, and John Adams was in danger of failure because of the very vigor and breadth of his conceptions. Egotist though he was in unguarded moments, he had always perceived the wisdom of modesty and by now had mastered the technic. Working together, Virginia and Massachusetts must eventually overbear the lukewarm and temporizing disposition of the majority of the Convention which took its tone from Pennsylvania and New York. Yet even Virginia, democratic though it was in dogma, feared the "levelling spirit" of New England, feared also lest its victorious army impose its will upon the other colonies.[24] The sons of Liberty who had ridden out to Frankfort to meet the Massachusetts delegation had advised self-denying strategy—that they "place Virginia at the head of everything."[25] Adams did this, loyally and persuasively. Firebrands from the South rode the high horse with toasts of scarcely veiled treason; but, so far as his mood was voiced publicly, it seemed measured and rational. He encouraged representatives of a colony instinctively aristocratic and only theoretically democratic to become spokesmen for instinctively republican New England.

While Congress was paltering with dutiful and humble petitions and with an economic boycott the chief result of which was to cripple the Revolution, Adams pressed quietly but steadily toward enlisting foreign aid. France was humbled to the dust by the recent loss of her vast dominions in America and eager for revenge against her traditional enemy. But the "turbulent Gallicks" could be brought to wage open and determined war only by the certainty that success would mean to England a weakening and humiliation as decisive as they themselves had suffered. The one thing needful was action so drastic as to close the last door to reconciliation. A declaration of independence being at first impossible, the radical leaders strove

to induce Congress to frame and submit to the people a national constitution which ignored England; to encourage the colonies one and all to frame independent State constitutions under it, and to set up efficient governments.[26] This latter step was of great immediate utility, for the courts were empty and the jails filled with prisoners awaiting trial. Worst of all, the work of legislatures and executives was at a standstill or feebly and bunglingly done—ill augury for the success of armed resistance. But Congress knew as well as John Adams that to frame independent governments would be in effect to declare independence; many members feared, moreover, that the colonies would set up governments more popular, more republican, than it as yet approved.[27] Adams was as tactful as he was tireless. What impressed his comrades most was the clarity of his mind, the unfailing buoyancy of his courage when others were dismayed; but his greatest triumph was over his own proud heart, impatient of a vision less clear, and rebellious at the need of working so largely in the name of others. As a result of this policy of self-effacement, Richard Henry Lee of Virginia made the successful motion for the Declaration and Thomas Jefferson of Virginia wrote it. But as both of them knew well, the chief architect was John Adams.

His master stroke was to persuade Congress to "adopt" and finance the army in Massachusetts. This he accomplished by himself proposing that it intrust the command to a Southern soldier, thus giving it something more than a local character. Only in this matter did he take the lead in his own person, and he did so because it was obviously self-denying.[28] Thanks to Lexington and Concord, the patriotism and resolution of the New England militia were in high repute. Its lack of steady discipline was as yet unsuspected, as also the deficiency in able generals which continued until the emergence of Nathanael Greene. To impose a chief commander from a distant and aristocratic "country" was a severe blow to local pride, a severe test of patriotic forbearance. Among others, Adams's friend and comrade, the vastly popular John Hancock, aspired as always to the post of glory. But policy required that supreme command go to the South, and in the Virginia delegation there was a soldier who might well be intrusted with it. True, his military experience was less impressive than that of several New Englanders. He was quite inexperienced in general command. But he was a man of

wealth and position, of notable modesty and probity, and of unshakable resolution. Above all, he was a member of the Continental Congress and of the very able and useful Virginia delegation. Thus Adams, in the name of the Massachusetts delegation, nominated a Virginia soldier to command the American army. On the day of Bunker Hill, he wrote of this to his wife, describing the Virginian as "the modest and virtuous, the amiable, generous and brave George Washington, Esquire." The thought uppermost in his mind lay deep in the heart of the silent soldier—that of allaying sectional dissension and creating the nation of which both dreamed. *"This appointment,"* Adams wrote, *"will have a great effect in cementing and securing the union of these colonies."* Later he said: "Washington was *the creature of a principle,* and that principle was *the union of the colonies."* [29]

Throughout life Adams respected Washington as man and statesman—seems even to have loved him in one warm corner of his heart. In 1796, in pronouncing the Senate's address to the outgoing President, he barely managed to keep down his own emotion and moved his hearers to tears, Washington being "affected more tenderly than I ever saw him in my life." [30] But from the moment of the soldier's departure from Philadelphia to Cambridge amid "the pride and pomp of war"—a cavalcade of light horse in uniform—John Adams was torn by envy. "I, poor creature," he wrote, "worn down by scribbling, must leave others to wear the laurels I have sown." If only he had done that! As chairman of the Board of War he came to despise Washington's generalship, to suspect the army of militarism and to hamper both ceaselessly. His jarrings against any and all of his equals he might have survived, did survive. His ultimate ruin came through his failure to sink his ego as regards the only man in that brilliant constellation of genius who was indubitably his superior—and who, by a strange irony, was the only one, if we except John Jay, who treated him with unfailing respect and consideration. That is the great tragedy of the Federalist era, for never were two souls more nearly at one, two minds more clearly designed by nature to complement each other.

Not until after Bunker Hill did the Virginians, nor Adams himself as it seems, resolve firmly upon independence.[31] It was still a long way to the great Declaration. In January of the next year,

1776, Thomas Paine's *Common Sense* converted multitudes who had hitherto clung to their loyalty. Still Congress paltered. It was in full control of most of the essentials of independent sovereignty—directing the actions of a Continental Army and busily laying the foundations of a navy; issuing paper money from a national "treasury" and apportioning taxes to make it good; entering into diplomatic and commercial relations with other nations. Yet it was so far from being the national leader it might have been, and so timidly a mere council of ambassadors from the several colonies, that it could not be brought to declare the patent fact. Jefferson did little or nothing to this end. It was not merely that he took no part in the debate. As his most candid biographer, Chinard, points out, he was absent from Congress for four months and a half (December 28, 1775–May 14, 1776) during the most critical period of the struggle, detained by private and merely local affairs. "National patriotism was still limited by family duty, and local patriotism was still stronger in him than obligations to a country which did not yet exist." Amid such supineness, the great declaration could not be made until twelve of the colonies had instructed their delegations to that effect and the thirteenth was known to be on the point of doing so.[32]

Then at last John Adams came into his own as the protagonist and the orator of Independence. Of the great speech he made, no word has come down to us. Daniel Webster's famous reconstruction of it is made up of phrases used at other times. "Sink or swim, live or die, survive or perish," was spoken two years before in conversation with his friend Jonathan Sewall—who was so far from being moved by it that he remained a Tory.[33] Adams himself pretended to make light of the speech, with the simulation of modesty which is so often the refuge of the excessively proud—until he realized that the glory of the great Declaration had lighted upon another. It was a mere formal restatement of a long-fought cause already triumphant. "Nothing was said but what had been repeated and hackneyed in that room for six months past."[34] With bumpkin self-consciousness he burlesqued himself. He had spoken only because newly arrived delegates had asked to be put in touch with the discussion. "It had so much the air of exhibiting like an actor or gladiator, for the entertainment of the audience, that I was

ashamed to repeat what I had said twenty times before."[35] Yet beyond question he was profoundly moved. Elsewhere he described the speech as the most eloquent he ever made.[36] The ground-swell of his passion and triumph surge through the letter to Mrs. Adams of the day after the definitive resolution was adopted—often quoted, yet without reference to the ironic fact its first words record. "The second day of July, 1776, will be the most memorable epocha in the history of America. . . . It ought to be commemorated as the day of deliverance by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade, with shows, games, sports, bells, bonfires and illuminations from one end of the continent to the other from this time forward forevermore. You will think me transported . . ."[37]

Whether he was or not, those who heard the speech were transported. In view of the majesty and import of the occasion it doubtless deserved to take a place in the regard of mankind even loftier than the written Declaration. Jefferson himself in his old age only echoed the contemporary verdict when he said to the youthful Daniel Webster: "John Adams was our Colossus on the floor. Not graceful, not elegant, not always fluent, in his public addresses, he yet came out with a power, both of thought and of expression, which moved us from our seats."[38] In conversation with Selma Hale in 1818 the author of the written document made this chivalrous acknowledgment: "No history has done him [John Adams] justice. . . . To him more than any other man is the country indebted for its independence."[39]

VIII

Already in 1776, however, the canker was gnawing the red rose of Adams's fame. Among those who knew him best, indeed, he was profoundly respected. The Continental Congress thought of him as highly as did his Massachusetts "countrymen"—more highly, as the field of his labor was wider and more arduous. The President of Congress was in reality a figurehead, a mere presiding officer, not President of the nation. All executive labor was done by committees appointed by and directly responsible to Congress. Adams served, first and last, on at least ninety of these executive committees and was chairman of twenty-five, including the most impor-

tant of all, the Board of War. His conduct of the movement toward the great Declaration indicated his choice for diplomatic missions the most weighty and difficult. Again and again Congress sent him abroad, and never was he found lacking. He stands in the forefront of our diplomats, with an unbroken series of triumphs. Yet for at least a year before the Declaration the foible which proved his ruin had been widely advertised.

A letter in which he chafed against the benumbing and stultifying influence of John Dickinson was captured by the British and published broadcast. In itself the fact, however regrettable, might have been passed over as the fortune of war. Even Washington, and at a far later date, was mortified by the capture and publication of a letter in which, at a crisis of relations with our French allies, he chafed at the conduct of Rochambeau. But where Washington wrote with dignity and restraint Adams sputtered indecorum.

> July 24, 1775. I am determined to write freely to you this time. A certain great Fortune and piddling Genius, whose Fame has been trumpeted so loudly, has given a silly Cast to our whole Doings. We are between Hawk and Buzzard. We ought to have had in our Hands, a month ago, a whole Legislative, executive and judicial of the whole Continent, and have completely modeled a Constitution; to have raised a naval Power and opened all our ports wide. . . . After this they might have petitioned, and negotiated, and addressed, etc. if they would. Is it extravagant? Is it wild? Is it not the soundest Policy?

We can see now that such a policy would have triumphed in half the time and with half the expense. But the good folk who read this letter found themselves in no mood for statesmanship. The fatal word was sufficiently startling in its original sense when applied to an author and a patriot of international renown, and the image evoked by its nursery meaning proved utterly irresistible. British officers, cooped up in Boston, improved their leisure by enlarging upon it in doggerel. Abigail Adams maintained an air of decorous indifference. Her friend, Hannah Winthrop, wrote to their common friend Mercy Warren, poet and satirist: "The [British] Versification . . . was in a hand Bill, and so scurrilous as not to be worth notice."[40] Circles less prim, both in England and America, rang with laughter. Dickinson cut Adams thereafter, and those who sympathized with the "system" of dutiful and humble petitions

avoided him in the street as if fearing to be contaminated by treason. In his Autobiography, Adams stoutly maintains that the incident proved of material benefit as drawing attention to his bolder policy, and he produces testimony to that effect. He concludes with a fling at Tom Paine: "From this time at least, if not earlier, and not from the publication of *Common Sense,* did the people in all parts of the continent turn their attention to this subject." [41]

To his worldwide reputation for hilarious indiscretions Adams steadily added; for he seldom hesitated to vent his spleen in private conversation and letters, and the magnitude of the affairs he had in hand made these outbursts widely current. Rumor of course exaggerated what he said and political malice distorted it with an unrebuked dishonor impossible in a later day when the means of publicity became better organized. But the collected *Works* afford quite enough material to establish the truth of Franklin's characterization, written in 1778 to Congress. "John Adams is always an honest man, often a wise one, but sometimes and in some things absolutely out of his senses." Great as were his achievements, noble as was his love of fame, his vanity dogged and defeated him precisely as he had forecast as a boy.

In spite of his confident expectation voiced to Mrs. Adams, in spite of Daniel Webster's effort to impress the American people with the grandeur and the commanding power of his call to independence, the American people have seen to it that the fame of "the most memorable epocha" in their history lights upon Thomas Jefferson—that the day of our independence is not the second but the fourth of July. The great genius of constructive statesmanship, the colossus of debate, is ignored while the Virginian who shrank from speaking and placed local affairs above national—the penman who recorded Adams's achievement in the printed page—is trumpeted throughout the world.

More tragic still is an episode of Adams's presidency. At the time when his fate and the fate of the country were threatened by enemies of his own household, under the lead of Alexander Hamilton, Washington made overtures the most complimentary, the most friendly. Hearing that Adams was to visit the new "Federal City," he seized the opportunity to urge him to put up at Mount Vernon and make it his "headquarters." Adams found himself too busy to

make the journey, cutting himself off from the one man who had it in his power to steady the ship of state. He did not explore the new capital until after Washington's death. It is, of course, the prerogative of the President of the United States to choose his own advisers. But few will question that, in holding himself aloof, he gave way once more to his cardinal folly, or that that act alone amply accounts for the fact that he and the Federalist system, the system of Washington, so soon went down to defeat.[42]

In 1811 Benjamin Rush suggested that the recluse at Braintree write a testament to the American people after the manner of Washington's Farewell Address. Patriot that Adams was at heart and lover of our people, he was profoundly moved—his soul was "aroused and harrowed." But he saw clearly the impossibility, indeed the absurdity, of the idea. "Washington and Franklin could never do anything but what was imputed to pure, disinterested patriotism; I never could do anything but what was ascribed to sinister motives." Precisely why this was he knew as he had always known; yet even while making the confession, his cardinal vice overcame him. He delivered this fling at Washington's reliance upon Hamilton's pen, at Jefferson's part in the Declaration: "If I could persuade my friend . . . Jefferson to write such a thing for me, I know not why I might not transcribe it, as Washington did so often. Borrowed eloquence, if it contains as good stuff, is as good as own eloquence."

IX

Adams himself bears witness, though half consciously, to the thing in which he differed from the successful great ones. "Mr. Lear," he wrote in 1816, "has completed the glory of the great and good Washington by informing us that he suffered great distress without a sigh or groan." With Franklin's stoicism, which, as he relates, he had seen with his own eyes, he is as little impressed. The aged philosopher, coming to dine with Adams at Auteuil, alighted from his coach in an extremity of silent anguish. He had been tortured by the stone, but had disdained to have his groaning overheard by the coachman. Adams writes: "I never saw a more perfect picture of horror, terror or grief than his countenance. I was shocked with surprise and compassion." To his coachman Franklin said,

"You need not come for me. I will walk home." It was two miles to Passy. To Adams he remarked, his rarest humor lighting up his pain, "I will never enter the door of a coach again, at least if I cannot find a coachman who has the stone." Relating this anecdote, the man who was not a philosopher but who was in his ninth decade, "old and sick, paralytic"—and "almost blind," when his one solace was reading—declaimed against such stoicism as a Homeric warrior once defied the bolt from heaven.

> Resignation is our own affair. What good does it do to God? . . . The stoics, the Christians, the Mahometans, and our North American Indians all agree that complaint is unmanly, unlawful and impious . . . Jeptha's daughter, Agamemnon's Iphigenia, the Hindoo widows who roast and broil and fry with their husbands' bones, probably utter no shrieks. The son of Alnomac never complained. Brissot and some of his colleagues are said to have pronounced "Vive la Repub—" when the guillotine has cut off the head—which, hopping and bouncing, and rolling, articulated the syllable "lique" after it was sundered from the shoulders. . . . I see nothing but pride, vanity, affectation, and hypocrisy in these pretended stoical apathies.[43]

And so to the end he vigorously ripped and snorted, tragically frustrate yet to all outward seeming sublimely unrepentant, confronting his fate with alternate fits of Jovian rage and jovial laughter.

The depth of his tragedy lay in his self-knowledge. In his heart he was too well aware that his lifelong lack of resignation, his facile eruptions and explosions *con brio,* had wrought great evil to that which in his heart stood next to God. The ditch at Braintree enveloped also his political party, the party of Washington, and that conception of our republic which inspired all the great Fathers.

As a last sardonic stroke, when the Fates ordained that Adams and Jefferson die on the same day, in July, 1826, the fiftieth anniversary of our independence, they chose not the day of the soul-stirring speech, but still the Fourth—day of the penman's Declaration.

CHAPTER VII

THE CONSTITUTIONAL BALANCE

I

It is a truism that ours is a government of checks and balances. The phrase occurs in all works on the subject and is familiar to high-school pupils whom we train up in reverence by making them deliver orations on the Constitution. The Senate and House have a check on each other, and the President on both. The Supreme Court has a check on Congress and the President whenever they go beyond their powers as prescribed. Nothing could be clearer. But what about balances? Do they differ from checks—and how? The authorities do not say. If one inquires of legislators and jurists, the answers are various. The more cautious say that they will have to think about it. The more outspoken declare that the words mean the same, like *jot* and *tittle*—which is the fact as regards common usage. Yet in every other application they mean things quite different.

The Constitutional Fathers, certainly, used *balance* in a highly special sense. Thus in *The Federalist* John Jay spoke of "those calm and mature enquiries and reflections which must ever precede the formation of a wise and well-balanced government."[1] To Hamilton the balance was the prime security against oppression, the means of insuring liberty itself.[2] The idea and the phrase occur throughout the records of the Federal Convention.[3] John Dickinson presented the conception in a metaphor clumsily recorded by Yates: "A government thus established would harmonize the whole, and, like a planetary system, the national council like the sun would illuminate the whole." This metaphor was admired and frequently alluded to. Thus Madison describes a supreme national power as "the only attractive principle which will retain the centrifugal force"; without it, "the planets will fly from their orbits."[4] If one asks of our modern constitutionalists what wisdom ordains this governmental gravitation, giving due weight and direction to each orb and preserving the spheres in their due relation, the answer is confident and decisive:

the Constitution ordains it. Perhaps Montesquieu is mentioned, his doctrine of the separation of powers. To those whom it satisfies, this answer is very satisfactory.

If one is plagued by a sense of the eternal flux and transformation of things human, of their growth or decay, a doubt lingers. Must the orbs and the spheres of a world mainly agricultural, the world of 1787, remain precisely the orbs and the spheres of a world that has suffered the Industrial Revolution? If so, the Constitution would resemble the solar system as Henry Adams so sadly described it—a clock that is running down with no prospect of a key or a winder.[5] To this doubt, champions of our Constitution oppose a triumphant rejoinder, amendments. Precisely! But what if our amendments are made ignorantly, wilfully, in defiance of the principle on which the whole is constructed—the mysterious balance? In proportion as the Constitution is the result of wide experience and wisdom—of "calm and mature enquiries and reflections"—that principle ought to be permanent. "The government we mean to erect," said Madison, "is to endure for ages"; and he foresaw that "in process of time" certain "interests" essential to the national welfare, especially agriculture, were in danger of being "overbalanced in elections." He therefore proposed a means—a very interesting one, namely a senate—for achieving "permanency and stability."[6] If to-day, in spite of all his prevision, this or that orb starts from its sphere, it is well to know on what precise principle it is to be "retained" there. So we are back where we started. What is the constitutional balance?

For a comprehensive answer we shall have to go behind *The Federalist*—the authors of which assumed a knowledge of the subject on the part of the reader, as we no longer can, and had certain other reasons for reticence—and study the great expositor of constitutional theory, then widely read but now neglected, John Adams.

II

The genius of Edmund Burke has been celebrated by citing the fact that, viewing the French Assembly of 1790, which concentrated all powers in a single chamber, he predicted a Napoleon.[7] In that prediction John Adams anticipated Burke by four full years. The incident that provoked him to utterance provoked also a volu-

minous disquisition on the balance, which deserves to stand as a landmark in our Constitutional history.

In 1776, the English liberal, Dr. Price—the same against whom Burke fulminated in 1790—wrote a pamphlet in which, with only the recent revolt in America to inspire him, he approved the bicameral balance.[8] In 1778 Turgot wrote a letter of remonstrance, one passage of which had consequences. Our national Constitution being ten years in the future, he was of course speaking of our early State constitutions, a collection of which Franklin had circulated in Paris—not without an ingratiating plea for the Constitution of Pennsylvania, which he and Tom Paine had had a hand in framing and which was unlike other State constitutions in being unicameral. Said Turgot:

> I see in the greatest number [of our new State constitutions] an unreasonable imitation of the usages of England. Instead of bringing all the authorities into one, that of the nation, they have established different bodies, a house of representatives, a council [Senate], a governor, because England has a house of commons, a house of lords, and a king. They undertake to balance these different authorities, as if the same equilibrium of powers which has been thought necessary to balance the enormous preponderance of royalty, could be of any use in republics, formed upon the equality of all citizens; and as if every article which constitutes different bodies were not a source of divisions. By striving to prevent imaginary dangers, they have created real ones.[9]

This letter was not given to the world until 1785, when Dr. Price published his *Observations on the Importance of the American Revolution*. John Adams was then our Minister in London. Nothing short of a threat to the hard-won liberties of his country could have stirred him so deeply; or, rather, the great Turgot's championship of a constitution deliberately unbalanced seemed to him precisely such a threat. For he believed that the will of the people, unless balanced and checked by all the forces of knowledge and wisdom, must eventuate in a tyranny no less disastrous than that of kings.

Out of his heroic ardor and energy, and his even more formidable learning, Adams poured forth his *Defense* of the new State constitutions, the first volume of which was published on the eve of our Convention of 1787. In this he predicted that Turgot's unicameral assembly, if adopted, would give rise to a "victorious general" who would govern as he pleased without "any council or assembly" and even in defiance of "the people." More than that, he predicted—

what Burke spoke too late to predict but eloquently described in the flesh—namely, that the coming of a Napoleon would be preluded by the treason to their class or order through which adventurers of the type of Orleans and Mirabeau controlled the Assembly to their own selfish ends.[10] It will not do to dismiss all this as a coincidence. After our late war, precisely the same course of reasoning would have indicated as clearly what we have witnessed in Russia and Italy —and may yet witness in England, the Constitution of which has become virtually unicameral.

Nor was Adams's work an improvisation, rapidly as it was written. For over a decade, he had been fighting the cause of a bicameral as against a unicameral legislature, of an independent judiciary and of an executive intrenched in authority—in brief, of the constitutional balance. Some knowledge of this struggle is essential to an understanding of his voluminous *Defense* against Turgot.

In 1775, when many of the colonies appealed to Congress for direction as to framing new constitutions, Congress paltered—being bent upon reconciliation with England and knowing full well that an independent constitution formally adopted meant an independent State. To Adams the situation was doubly critical. In their makeshift governments the colonies, rejoicing in the expulsion of their royal governors and their councils, were tending to centre all power in the popular assembly, thus slipping into the unicameral democracy which he so greatly feared. Eager as he was that they should act as independent States, he was perhaps more eager that they frame and adopt constitutions truly republican. To this end he labored privately with their representatives in Congress. John Rutledge, who dominated the very able committee which drafted the early stop-gap constitution for South Carolina, is known to have been among his interlocutors, and the Constitution bore evidence of Adams's ideas. In behalf of Virginia, Richard Henry Lee got Adams to make a written outline of a balanced constitution, and copies of it were widely circulated in the colony—one of them being sent to England as evidence of rebellion, where it was discovered in the State Paper Office by Jared Sparks. In January, 1776, George Wythe made a similar request. Adams then wrote a pamphlet of twenty-eight pages, *Thoughts on Government,* which had a far wider circulation. Washington's brother John refers to it and it was

doubtless familiar to Washington.[11] Unquestionably it was familiar to, and in the main approved by, Jefferson and Madison and many others of the Virginia Convention of 1776, including George Mason who was chief architect of the Constitution it framed. In deference to the need of haste, under pressure of the Revolution, Adams suggested that the Senate be elected by the House and the Governor by the two jointly. This he knew to be exceptionable, in that it made the Senate dependent on the House and the Governor on both; and he suggested, for calmer times, an amendment providing that Senate and Governor be elected by the people[12]—as he himself later specified when he redrafted the first crude Constitution of Massachusetts. The Virginia Convention improved on his *Thoughts* to the extent of making the Senate, though not the Governor, elected by the people.

On receiving a copy of it Patrick Henry wrote, on May 20: "Our Convention is now employed on the great work. . . . Would to God you and your Sam Adams were here! It shall be my incessant study so to form a portrait of government that a kinship with New England may be discerned in it. . . . I shall think perfection is obtained if we have your approbation." In addition to Mason's separation and co-ordination of the powers, Patrick Henry fought for a feature which Adams boldly but unsuccessfully advocated all his life, an executive veto immediate and absolute.[13] But forces of ignorance and self-interest prevailed, and in two respects the result was a large measure of *un*balance. The tidewater aristocracy retained a disproportionate number of representatives as against the multiplying small farmers of the uplands, and the lower house was given substantial control of all functions, executive and judicial as well as legislative. Bicameral in form, the spirit of the Constitution was unicameral. This concentration of powers Jefferson denounced as "precisely the definition of despotic government" and declared that "the government we fought for" was one in which representation is equal and "the powers" are "divided and balanced."[14] This early preference on the part of great statesmen in Virginia for the constitutional balance is a fact of some interest in view of the ideas and phrases with which they subsequently launched the Democratic party.

Upon John Jay's New York Constitution of 1777 Adams claimed

for his *Thoughts on Government* a decisive influence. "As Duane told me, he [Jay] had gone home [from Congress in Philadelphia] with my letter to Wythe in his pocket for his model and foundation; and the same Duane, after the Constitution appeared, asked me if it were not sufficiently conformable to my letter to Wythe." [15] Possibly Jay felt able (though so many of the great Virginians did not) to do his own constitutional thinking. If Adams had any monopoly in such matters it was in patriotic and perhaps bumptious eagerness to have the States frame independent constitutions and frame them right. It is none the less true that the New York Constitution followed his basic idea much more closely than the Virginia Constitution had done, and that it was "by far the best" that had yet been adopted, the legislative, executive and judicial functions being in the main independent and equally poised. In two respects it attempted an improvement on Adams's *Thoughts* and in both met disaster. Intending a salutary check upon the executive power of appointment, it provided a Council of Appointments elected from the legislature—which made many high offices mere shuttlecocks of partisan politics. Likewise, intending only to guide and inform the executive veto, it created a Council of Revision—which enabled the judges to oppose their reactionary influence to the will of both Legislature and Executive, not only in the interpretation but in the framing of the law. The New York Constitution endured for over half a century and afforded useful precedents for many sister States; but eventually it had to be rewritten.

In 1780 Adams was able himself to give form and body to his "thoughts." The constitution he wrote for Massachusetts was epoch-making and of enduring influence. It was the first to be based upon a direct mandate from the people and to be ratified by them. It has been amended to bring it in line with the ideas and the economic conditions of succeeding generations, but it is still in force—the sole survivor of the State constitutions of the Revolutionary era.

There is no doubt a danger of overestimating Adams's influence in creating the American type of balanced constitution. That had its primal source, as he never failed to emphasize, in republican experience that went back to early antiquity and was formulated by Aristotle. It had a more immediate origin in the colonial constitutions under which his generation had grown up and which the Fathers

kept firmly in mind even at their most theoretical.[16] Rutledge and Mason and Jay, Hamilton and Charles Pinckney and James Wilson, Jefferson and Madison, were all deeply read in the history and theory of government and at the same time creative statesmen of great sagacity and experience.

The Massachusetts Constitution was itself clearly foreshadowed in a pamphlet of 1778, called *The Essex Result,* doubtless by Theophilus Parsons, which expounds the ideas of the reputedly too conservative Essex Junto. One of Adams's least sympathetic critics, James Truslow Adams (who protests that he is not of kin), calls his draft "a compromise" between the ideas of *The Essex Result* and those of the insurgent democrats represented on the drafting committee by Sam Adams. This statement is an imperfect paraphrase from Charles Francis Adams, who was himself none too well informed or explicit.[17] As a matter of fact, the Essex proposal and John Adams's draft are very nearly identical. Adams recognized this. Years later, in 1809, he claimed that the Junto "adopted" his ideas of the pamphlet of 1776, *Thoughts on Government.*[18] His memory in some measure deceived him—perhaps also his vainglory. *The Essex Result* and Adams's draft of the Constitution of two years later are alike in all essentials—a bicameral Legislature, a Governor having an absolute veto but largely controlled by a Council and made directly responsible to the people by annual elections, a judiciary appointed by the executive and firmly independent; but both differ from Adams's *Thoughts on Government* of 1776, in many essentials—the most striking of which is that they make the senatorial districts represent not equal units of population, "persons" as such, but *equal units of property.* As the *Result* says, a law which passes both branches has the consent not only of the electors in mass but also of "those persons who hold *a majority of the property in the State.*"[19] Parsons' pamphlet of 1778 is, furthermore, far more acutely reasoned and comprehensively written than *Thoughts on Government*—or than anything Adams wrote. If there was any "compromise" in 1780, it was not a matter of constitutional theory but of personality and mood. Whereas Parsons and his Junto were instinctively conservatives, and in wide disrepute as such, Adams was instinctively a liberal and was popularly trusted, and so prevailed with Sam Adams and the other democrats. This seems to be

the real sense of what Charles Francis Adams says. It is a matter of some importance, for this difference between the two wings of the Federalist party, a difference of impulse rather than of theory, ultimately wrecked it—and John Adams.

Yet when every allowance is made for the contributions of Adams's fellows, including the Essex Junto, the fact remains and is obvious that he was pre-eminent in knowledge, in ardor and in authority, and that the Constitution he drafted served as prototype for the forty-nine balanced bicameral American constitutions of to-day.

III

But there was always a chip on his shoulder and, thanks to Franklin, Turgot had publicly knocked it off. As early as 1775 Adams had begun to see that the equalitarian spirit was rising, and with it an ignorant defiance of what to him was fundamental law. At the time when the courts were suspended by the breakdown of the old governments, he had met an old client, "a common horse-jockey" whom he had defended in many a legal action. "Oh! Mr. Adams," the man exclaimed, "what great things have you and your colleagues done for us! We can never be grateful enough to you. There are no courts of justice now in this Province and I hope there never will be another." One suspects that the sly dog was, as he would perhaps have put it, stringing the wise and good. Later, John Adams laughed. But at the time the thought "struck" him into "a profound reverie if not a fit of melancholy." "Is this the object for which I have been contending? . . . Half the nation are debtors, if not more, and these have been, in all countries, the sentiments of debtors." [20] After the Revolution, during the very Winter of 1786–7 in which the *Defense* was written, there was a wide-spread rising, of which he was well informed, against the "aristocracy" of his Massachusetts Senate, against his judges placed for life above the will of the people. Daniel Shays mustered the debtors of the Western countries and by force of armed numbers closed the courts. Their grievances were real and bitter. From the beginning, the Revolution had been largely inspired and fought by the common people, who looked to it for an ampler life; but as yet they had found only new miseries. Few could be more sympathetic with their aspirations and grievances than John Adams—himself son of a

laboring farmer and shoemaker, and himself long deprived of his professional income by the war and its aftermath. But as he had stood against the tyranny of kings he now stood against the tyranny of ignorant numbers. For their own sakes, as well as for the general welfare of the new States, he believed it to be indispensable to restrain them within the balanced republican order.

The worst of all his perplexities was Benjamin Franklin—who, as he well knew, was hand in glove with the theoretic democrats of France, with Turgot. In 1776, even as Adams was holding forth to his fellow members of Congress on the beneficent balance, Franklin was aiding and abetting the democrats of Pennsylvania, who were framing for it a unicameral constitution—a friend and ally of Tom Paine. Under the same roof, on the same floor and just across the hall, they had united legislative, executive and judicial in a single chamber—had excogitated freak features, moreover, beside which Jay's councils of appointment and revision were measures of supernal wisdom. Adorned with gaudy excrescences, the new constitution was without separate organs and limbs—a primitive, amœbalike mass of jelly, fit only to sway and change with every tide of public opinion and scud before every storm. Its futility had convulsed the State with political brawls and paralyzed its military effort on the eve of Howe's invasion. Yet its unicameral concentration of functions was widely admired, and was largely copied in two subsequent State constitutions. As President of its impotent Council, Franklin stood by his handiwork confidently, genially, complacently, as did all of his fellows. Though they found themselves obliged to violate it flagrantly, they doggedly refused to have it rewritten, and so persisted until 1790—when it was replaced by a constitution quite according to Adams's prescription.[21]

For the present, Franklin seemed always to bear the palm of victory over the sturdy, sober, moral and solidly successful John Adams. In 1776 when the Pennsylvania constitution was on the anvil, Franklin had risen from his chair as president and smothered the proposal of a senatorial chamber in a gale of laughter. "Two assemblies appeared to him like a practice he had somewhere seen of certain wagoners who, when about to descend a steep hill with a heavy load, if they had four cattle, took off one pair from before and, chaining them to the hinder part of the wagon, drove them up hill;

while the pair before and the weight of the load, overbalancing the strength of those behind, drew them slowly and moderately down hill." [22] A terrible man, Franklin! Adams countered the idea in his best vein of compliment. Likening the separate powers of government to "those angry assemblies in the heavens," storm clouds, he said that the man who snatched the thunder-bolt from Heaven and the sceptre from a tyrant would seem best qualified of all men to understand a not dissimilar governmental device—simple as "a pointed rod" yet "sufficient at any time, silently and innocently, to disarm those assemblies of all their terrors by restoring between them the balance of the powerful fluid." All in vain! Franklin's wagon with its oxen pulling against each other made the absurdity of two chambers manifest to the meanest intelligence. Channing casts doubt on this anecdote, but it is in Franklin's most characteristic vein and the evidence for it is overwhelming. In 1787 he similarly ridiculed the bicameral preference of the Constitutional Convention with a story of a snake with two heads going to the brook to drink. Each head insisted upon passing on a different side of a sapling, so the unfortunate creature was brought to a standstill and died of thirst.[23]

In 1780, when Adams was what he called a "militia diplomat" in Paris, Bunker-hilling it all over the place—with eventual success but to the tactful Franklin's present dismay—he had seen the shrewd philosopher at work disparaging the constitutions of New York and Massachusetts, and distilling into the minds of "the Duke de la Rochefoucauld, M. Turgot, M. Condorcet and a thousand other men of eminence and learning," the poisonous belief that he, Franklin, had "framed and established all the American constitutions of government, especially the best of them, i. e., the most democratical." [24] Now in 1786 it was blazoned to all the world that Franklin's unicameral theory was vigorously sustained by the wise and virtuous Turgot. It must have seemed to Adams's excitable imagination that the good doctor pursued him like a villain of melodrama.

IV

Published in London, Adams's *Defense of the Constitutions of Government of the United States of America Against the Attack*

of M. Turgot was republished at once in Boston and in Philadelphia, and in Paris in a French translation. It ran through many editions. Undoubtedly it was read by most members of the Convention. Washington's copy is still preserved, in the Boston Athenæum.[25] In the debates Luther Martin referred to it as familiar and generally approved. Probably that piddling genius, John Dickinson, was indebted to it for the much-admired simile of the orbs and their spheres[26]—for which, however, they were both indebted to one James Harrington, who seems to have derived it from a much neglected constitutionalist, William Shakespeare. In spite of the wide currency of the *Defense,* however, it cannot be said that it achieved anything like the authority which Adams in person had exerted upon the men who framed the State constitutions. Though broadly republican in feeling as in theory, it was too outspoken against direct democracy to be available material for even the most liberal-minded champion of the new national Constitution. Oftenest it was quoted derisively—or, rather, misquoted, as it still is—to discredit the idea of the balance. When he became President, and chief of the Federalist Party, certain perverted catch phrases, notably "the rich and well born," pursued him with damnable iteration. To the end of his days he raged full-mouthed against its lack of appreciation and of effect.

The *Defense* can scarcely be called a systematic treatise, or even unmistakably clear. Adams was masterly in imaginative grasp, in abundance of penetrating phrases; but he lacked the patience and self-discipline needful to the orderly development of his thought. And as always he wrote furiously, under the sway of eruptive passions—with the instinct of an orator, not of a man of letters. Begun on the fourth of October, 1786, the first volume was finished by the twenty-sixth of December, and this in the face of pressing ambassadorial duties. Adams makes no claim of novelty, originality—quite the reverse. His plea is that the wisdom of his darling Massachusetts Constitution, and the madness of M. Turgot's doctrine, is attested by the accumulated experience and the seasoned judgment of mankind. Out of a lifetime of prodigious reading and of crucial experience in government, he poured forth crude masses of quotations of all sorts, interspersed with a running fire of comment. After pages of "preface" and more pages of "preliminary observations," the

mountain conceives and gives forth an exposition of the molehill republic of San Marino. And so, pell mell, we run through the list of "modern democratic republics," of "modern aristocratic republics" and "modern monarchical or regal republics." Then come "opinions" of "philosophers," of "writers on government," of "historians," jostled together and piling on one another's heels—Dr. Swift, Dr. Franklin and Dr. Price; Machiavelli, Montesquieu, Harrington; Polybius, Dionysius of Halicarnassus, Plato; Locke, Milton, Hume. Finally we have ancient republics—Crete, Argos and Corinth jumbled up with Athens and Rome. To make confusion worse confounded, whole series of pages of printer's copy were transposed, and the error never corrected until Charles Francis Adams edited the *Works* in 1856. But everywhere the efficacy of a duly fixed balance is demonstrated, the chaos and tyranny that follow insistence such as Turgot's upon "the equality of all the citizens" and his plan of "bringing all the authorities into one, that of the nation." On Adams's return to America, he wrote two volumes more, the second being devoted to the dismal brawls of multitudinous Italian republics, and the third entire to the quite negligible Marchmont Nedham. As Vice-President in 1791, amid the rising tide of Francophile democracy, he tactlessly began his *Discourses on Davila,* publishing them serially in Fenno's *Gazette.* He was howled down by the mendacious rage of the democrats.

In after-years a publisher asked him to prepare a corrected edition of the whole, but he refused. The crisis was long past—and he doubtless realized that in order to produce any real sequence he would have to replan and rewrite the entire four volumes. One might as well try to landscape-garden the eruptions of a volcano. Succeeding generations have fled from that chaos. Yet for those who can read without running, the evidence is thought-compelling, and frequently it is summed up in sentences still vibrant with energy.

V

Is it too much to expect that we of to-day shall begin our study of the Constitution with John Adams? He is not only the earliest but in many ways the most reliable exponent of its basic ideas. The records of the Constitutional Convention are at best able summaries

in brief, focussed upon the measures urged rather than the reasons for them; and, in spite of the zeal and ability of James Madison, they are hurried and elliptical. Nor do the reasons seem to have been freely and fully expressed, except by a few bold extremists, notably Hamilton. State jealousies were rife and the fear of all national authority. And in that "assembly of demigods," as Jefferson called it, there were clear-headed democrats besides Franklin who preferred that their "principle" be embodied in its appropriate "form." Until the very last moment, when Franklin threw into the scale the weight of his wise and generous forbearance, the Convention was so racked by strife between small States and large, between slave-owners and abolitionists, between agricultural and commercial interests, as to be in imminent danger of shipwreck. The authors of *The Federalist* were haunted by a similar fear. Their purpose was, as we should say, to "sell" an intricately and firmly balanced Constitution to a people whose hopes of the Revolution had thus far been mocked by increasing miseries, and who were already being plied with theories of unlimited democracy. Even Hamilton became circumspect: nothing in the great treatise is more admirable than the firmness with which, for once, he curbed his ardor, the tact with which he seasoned his candor.

The debates in the State ratifying conventions were similarly restrained. Advocates of the Constitution often spoke of the House of Representatives as "the democratic branch" but never by any chance did they call the Senate aristocratic. They stressed the fact that the President was the representative of the whole people and that his term was comparatively brief; but they put a muffler on the fact that, while in office, his prerogatives were, and were intended to be, essentially royal. In the Pennsylvania Convention James Wilson revealed powers of mind on a par with those of Hamilton and Madison; but, perhaps because he was speaking in the home town of Franklin's unicameral constitution, he felt obliged to maintain that the new instrument would set up a "pure democracy."

For a plain, unvarnished account of the ideas that are embodied in our constitutions we must go to the *Defense* and its precursors. John Adams was at least as deeply read and widely experienced in government as any of his contemporaries—and he was God's own fool for blurting the truth.

CHAPTER VIII

FORGOTTEN FATHERS OF THE CONSTITUTION

I

Before John Adams was James Harrington, and they both harked back to Aristotle. Throughout Adams's works on Government, one finds allusions to *The Commonwealth of Oceana*—a Cromwellian tract in which a youngish English gentleman calmly explained to Oliver Protector just why he should confiscate the estates of the aristocracy, resign his Protectorate and establish a republic. That Harrington was a political thinker original as he was bold has always been recognized in England, as also that he exerted strong influence upon the makers of our constitutions. In modern America his influence was first traced, very imperfectly, during the Centennial of the Constitution, by Theodore Dwight in the *Political Science Quarterly;* and it has not yet achieved critical understanding. It remained for an Englishman, Mr. H. F. Russell Smith, to make a searching survey of Harrington's ideas and their influence; and then his book, published in 1914 amid the onslaught of the World War, failed of the consideration it deserved.

Mr. Russell Smith is remarkable alike for thoroughness in research, for intelligence in presentation—and for failure to recognize at all clearly a major phase of Harrington's thought which was dear to John Adams and indeed to all the great Fathers. Though the constitution described in *Oceana* vests the original and the ultimate power in the people as a whole, it carefully provides that, except in dire crises, leadership shall be vested in the chosen few who possess "goods of the mind"—wisdom and virtue being stably balanced against the power of mere numbers. Mr. Russell Smith's lack of interest in this balance is traceable, no doubt, to the equalitarian spirit which pervaded the nineteenth century and was shaken only by the World War. Men born and bred to parliamentary democracy were little disposed to admit that the will of the majority tends dangerously to err. In America there was an added reason. Walter

Bagehot had dismissed the theory of the balance as merely "literary," genially ridiculing our Constitution as a mistaken and clumsy "copy" of the English Constitution; and he had formidable followers among us, including Woodrow Wilson and John Fiske. Bagehot himself fell prey, as early as the Reform bill of 1867, to serious doubts with regard to parliamentary democracy virtually unicameral and based on a suffrage fast becoming universal; but his doubt seems not to have dampened his followers. In America, certainly, they continued to declare that the Constitution we had been taught to revere was conceived in a *blunder* and had long been outmoded.[1] If we are to weigh and value that judgment, we must reconstruct the ideas of Harrington and Adams.

II

Though separated by over a century, and by the even more divisive Atlantic, they were at one in method and spirit. Both were scientific rather than "literary," basing their conclusions not merely upon the theory of Aristotle and Plato, Polybius, Machiavelli and the rest, but upon a historical induction marvellously comprehensive and systematic; and both, living in epochs highly critical, were ardent first-hand students of existing governments. They were equally eager to seize a present crisis and bend it to the cause of permanent republican freedom. Through a mediæval millennium of absolute monarchy, the republics of the ancient world had shone as a beacon light of liberty, and now again a great people had developed the possibilities of self-government. In his project for realizing these possibilities, Harrington was the more original—making, as we shall see, one signal advance over the theory of the Ancients; but he was also more fanciful and impractical. Moreover, the political conditions under which he lived, embittered by bigotry, were unfavorable to the adoption of a well-rounded republican constitution. His hope in the great Protector crumbled. But on the ruins of it England, in the fulness of time, erected a constitution which, measurably true to his theory of the equal power of the few who possess "goods of the mind," blended with it English traditions of value which he had neglected, including that of a strong and united executive power. In 1748 Montesquieu, and the world with him, found that the English constitutional monarchy not only embodied

the Hellenic and Roman idea but made a signal advance over it. In 1776 Adams had at his command a century and a quarter of English experience in self-government, both in the home country and in America, and with it the inestimable advantage of being himself a political leader up to his neck in the actual stuff of constitution-making. His ideas may seem to have been derived from the English Constitution as expounded by Montesquieu, but a critical reading of his *Defense* and of *Oceana* will show, I think, that this judgment is superficial and profoundly misleading.

Perhaps the best brief statement of the antique theory is in a fragment of Polybius, quoted by Adams, upon the Spartan Constitution of Lycurgus. Echoing Aristotle in the heyday of the Roman Republic, Polybius observed that governments of a "simple" or "unmixed" type tend to be destroyed, each by its characteristic vice.

"The vice of kingly government is monarchy; that of aristocracy, oligarchy; that of democracy, rage and violence. . . . Lycurgus, to avoid these inconveniences, formed his government not of one sort, but united in one all the advantages and properties of the best governments; to the end that no branch of it, by swelling beyond its due bounds, might degenerate into the vice that is congenial to it; and that, while each of them were mutually acted upon by *opposite powers,* no one part might incline any way, or *outweigh* the rest; but that the commonwealth, being equally *poised* and *balanced,* like a ship [or "a wagon"] acted upon by contrary powers, might long remain in the same situation."[2] The italics are contributed by Adams, as also the interpolated reference to a painfully derogatory remark of Ben Franklin's.

Polybius added that the Romans of the Republic had arrived at the same end by the same means, and had so ably developed the balance "that it is impossible to invent a more perfect system of government." Harrington would doubtless have agreed to this in the main; but Adams, in the light of recent English advances, demurred. "The distribution of power was never accurately or judiciously made in that constitution. The executive was never sufficiently separated from the legislative, nor had these powers a control upon each other defined with sufficient accuracy." Moreover, the Romans had not developed representative government so as to give full and free influence to all elements in the nation.[3]

Adams gave the palm to the English Constitution, but he was not blind to the fact that it fell far short of perfection. Many Members of the House of Commons held their seats at the will of individual peers and many more at the will of the King's agents of corruption. At best the franchise was absurdly limited and inequitable. Though Adams did not take it upon himself to say "whether the crown and the people . . . will not see the necessity of uniting in a remedy," he left no doubt that such abuses shocked his republican soul. Yet they did not blur his historic perspective. Making it abundantly clear that he was speaking of the "theory" of the Constitution only, he declared that, "both for the adjustment of the balance and the prevention of its vibrations," it was "the most stupendous fabric of human invention." He proceeded to show that America was making a practical advance upon both the antique and the English commonwealths by abolishing hereditary king and nobles, purifying the franchise and vesting ultimate sovereignty "in the whole body of the people."[4]

Thus far his thought is easily comprehensible; but difficulties follow. Two words which Harrington and Adams use frequently, and which recur in the records of the Federal Convention and in *The Federalist,* had a difference of meaning which historians seem scarcely to have grasped. The constitutional balance is to be established among the various "orders" of a nation and also among the various "interests." Adams says, with the emphasis of italics, that his purpose is "to show the utility and necessity of different *orders* of men, and of an *equilibrium* of powers and privileges"; and again: "This representative assembly [the lower chamber] should be a miniature and exact portrait of the people at large. . . . Equal interests among the people should have equal interests in it."[5] In the Constitutional Convention, Charles Pinckney ably developed the idea. In *The Federalist* Madison says: "The diversity in the faculties of men, from which the rights of property originate, is . . . an insuperable obstacle to a uniformity of interests." Due representation of diverse orders and interests is the prime essential of popular liberty.[6]

It was the theory of the balance of *orders* which the nineteenth century found to be literary, and in one sense it certainly was so. The great writers of our race have held it to be essential and struc-

tural in a self-governing state. Shakespeare's Ulysses paraphrases the word as *degree* but the idea is the same.

> The heavens themselves, the planets and this center
> Observe degree, priority and place . . .
> Office and custom, in all line of order . . .
> Take but degree away, untune that string,
> And hark what discord follows . . .
> Then every thing includes itself in power,
> Power into will, will into appetite;
> And appetite, an universal wolf . . .
> Must make perforce an universal prey
> And last eat up himself.[7]

Milton in his *Reformation in England* speaks of the English government as "equally balanced" among the "orders." In *Paradise Lost* he observes the distinction between equality and liberty which was familiar through centuries in English thought but is to-day long ignored. The hosts of Heaven, "if not equal all" are "yet free, equally free";

> . . . for orders and degrees
> Jar not with liberty, but well consist.[8]

Edmund Burke, viewing the onset of the French Revolution, lent the lustre of his eloquence to this idea.

Burke, who shows frequent traces of Harrington's thought, added the word used by Adams and Madison. The art of constitution-making, he said, consists in giving the various orders or classes of citizens "such appropriate privileges as might secure to them what their specific occasions required, and which might furnish to each description such force as might protect it in the conflict caused by the diversity of *interests* that must exist, and must contend, in all complex society."[9] This use of the word, certainly, is not literary. It dates back only to Harrington, and it embodies his great contribution to constitutional theory, highly lauded by John Adams. To the Bagehotian school of the nineteenth century, both the word and the idea it stood for were unknown. In order to understand Adams's works on Government, and indeed *The Federalist,* it is necessary to glance briefly at Harrington's picturesque and perilous life, and at his somewhat less readily comprehensible *Oceana.*

III

Harrington was born of an ancient family widely connected with the nobility. He was an intimate friend of Charles I and shared his imprisonment. But he made no concealment of opinions subversive of monarchy. He was, as Russell Smith calls him, "the most uncompromising republican of his age." *Oceana* is a justification of republican institutions, of the utmost acumen and coherence. Its ideas are, however, tactfully presented in the guise of quasi-utopian fantasy tinged with humor. Its hero is a transparently disguised Cromwell, and it dedicates to the great Protector a bland project for his abdication in favor of a written constitution.

An incident is on record characteristic of the times and of Harrington. Cromwell's secret service got wind of the book and stupidly confiscated it while it was passing through the press. Harrington addressed himself to Lady Claypole, Cromwell's favorite and dearly loved child. Though a stranger, he gained admission to her antechamber. "While he attended," writes Toland, his editor and biographer, "some of her waiting women coming into the room were followed by her little daughter, who staid behind them. He entertained the child so divertingly, that she suffered him to take her up in his arms till her Mother came; whereupon he, stepping toward her and setting the child down at her feet, said 'Madam, 'tis well you have come at this nick of time, or I had certainly stolen this pretty little lady.' " Thus boldly and whimsically, yet tactfully and winningly, he introduced his complaint that Cromwell's agents had "stolen" his "child."

When the Protector read *Oceana,* he laughed and said dryly that "the Gentleman had like to trepan him out of his power, but that what he had got by the Sword he would not quit for a little paper shot." He was even less a "speculatist" than Washington, and he lacked the republican wisdom and grace that enabled Washington always to subordinate his personal power and his personal judgment to constituted authority. In all fairness it must be added that, amid the bitter passions and exacerbated bigotries of Cromwell's time, the mutual concessions necessary to a stably balanced government were perhaps impossible. And Harrington had gone to the root of things: in the interest of a moral and social—not individual—equality, he

proposed a drastic division and redistribution of the great estates of England. Certainly Cromwell was more tolerant than the Second Charles, under whom Harrington was imprisoned for his audacious writings and so harshly treated that he became incurably insane.

In republican circles of the Commonwealth in the year 1656, *Oceana* made Harrington the man of the hour; its subsequent vogue was so powerful that three American colonies, Carolina, New Jersey, and Pennsylvania, were given constitutions consciously copied from it in their essentials. Both Theophilus Parsons in *The Essex Result* and John Adams in his draft of the Massachusetts Constitution show strong traces of its influence. In the France of 1800, Sieyès embodied its leading feature in the Constitution which Napoleon adopted. Russell Smith points out that many of its ideas, quite novel in the seventeenth century, have become commonplaces in America. "The written constitution, the unlimited extension of the elective principle, and the separation of the three functions of government, lie at the root of American political theory; the equal division of property among the children is one of the most far-reaching social and political factors in the United States; the principle of indirect election, though now discredited, has been employed since the formation of the Union. Short tenure of power, the multiplication of offices, the system of checks and balances, rotation, the ballot, the use of petitions, the popular ratification of constitutional legislation, the special machinery for guarding the constitution, religious liberty, popular education—all these things play their part in America." [10] This Cromwelling Englishman remained for a century more American than the Americans.

Harrington's insistence that not only "orders" of men but their "interests"—their proportional share in the national wealth—shall have weight in the general balance is even yet very far from being a commonplace. He wrote: "As is the proportion or balance of Dominion of Property in Land, such is the nature of empire." If "one man," the King, owns a major portion of the land, the result is an "absolute monarchy"; if he shares it with "the few or a nobility," the result is a "mixed monarchy"; but "if the whole people be landlord, or hold the lands so divided among them that no one man, or number of men, within the compass of the few or nobility overbalance them," then "the empire . . . is a commonwealth." [11] This is "the nature of" the economic balance; if it is violated, the

natural result is strife and sedition. Thus, as Harrington points out, the Civil Wars and Cromwell's Commonwealth, were the result of a change in the ownership of land. Henry VII had broken up the great estates of the barons and Henry VIII had distributed the lands of the monasteries. With the wealth of the nation thus widely held, the Stuarts could not maintain the divine right of kings. Cromwell himself intensified the economic change by confiscating lands of Crown, Church and Royalists. It was a desire to extend further the basis of political power that led Harrington to postulate a further distribution of land. All this may be commended to the attention of those who regard Karl Marx as the originator of economic determinism.

As regards abstract theory, Harrington did not stop here. He recognized that, in whatever form, property largely determines political institutions—money as well as land. "In such cities as subsist mostly by Trade, and have little or no land, as Holland and Genoa, the balance of Treasure may be equal to that of Land in the cases mentioned." [12] The fact was not then pertinent to England, which was mainly agricultural, its chief export of wool being an almost direct product of the land; but Harrington saw clearly that all economic interests require to be duly represented; that if they are not, something of the kind will happen which was then convulsing England.

Unlike the Marxians, Harrington was no believer in individual equality. Repudiating pure monarchy and pure aristocracy, he likewise repudiated "pure democracy." [13] True, in exercising the constitutional power the people act as individuals and the majority decides; but this happens only in crises in which Government proves flagrantly false to its trust. "Reduced to misery and despair," the people "become their own Politicians, as certain Beasts, when they are sick, become their own Physicians." At other times, equality in a republic is not between individuals but between organic units of the nation. "The perfection of Government lies upon such a libration in the frame of it, that no man, [a king] or [group of] men in or under it, can have the power to disrupt it with sedition." [14] Thus a constitution which gives free scope and proportionate influence to the organic units of the nation is the prerequisite of republican order, the fountain-head of liberty itself, even of individual lib-

erty; it is "the liberty not only of the Commonwealth but of every man."[15] Over a hundred years before our Revolution, Harrington saw that, because of the impossibility of a due representation of American interests in England, the colonies were destined to be independent. "They are yet babes that cannot live without sucking the breast of their mother . . . but such as I mistake if when they come of age they do not wean themselves."[16]

IV

By what means are the various interests within a state to be insured the consideration and the power that are their rightful due? To Harrington and the men of his time the answer was as clear and as vital as it became alien and negligible to the generation from which and to which Russell Smith spoke. Representation of group interests is not enough, for they are inevitably unequal in power and inevitably antagonistic. Only by a proper "libration" or balance of orders against interests are interests to be at once insured a proper influence and kept in due restraint. The clashing of economic forces is to be controlled by those who have knowledge, ability and patriotic virtue.

"The principles of government," Harrington says briefly, "are twofold: internal, or goods of the mind; and external, or goods of fortune." The "goods of fortune" are "riches." The "goods of the mind" are "natural or acquired virtues, as wisdom, prudence, courage, etc." The "goods of fortune" bestow "power or Empire"; the "goods of the mind" bestow "authority." Harrington uses *authority* in its true and original meaning. "A learned writer may have authority though he has no power; and a foolish magistrate may have power, though he has otherwise no esteem or authority."[17] Thus if a constitution is to endure it must not only be balanced economically; it "must give the upper hand in all cases to the common right." No one should be allowed to "carve for himself of that which he desires most," but each "should be mannerly at the public table, and give the best from himself to decency and the public interest." Thus a properly balanced government "is nothing else but the national conscience." "We have wandered the earth to find out the balance of power; but to find out that of authority we must ascend nearer to heaven, or to the image of God, which is the soul

of men." It is in this high vein that Harrington conceives of the balance of orders, yet he illustrates it in a manner as homely as it is vivid.

> Let us take any number of men (as twenty) and immediately make a commonwealth. Twenty men (if they be not all idiots, perhaps if they be) can never come so together but there will be such a difference in them, that about a third will be wiser, or at least less foolish, than all the rest; these upon acquaintance, though it be but small, will be discovered, and, as stags that have the largest heads, lead the herd; for while the six, discoursing and arguing one with another, show the eminence of their parts, the fourteen discover things that they never thought on; or are cleared in diverse truths which had formally perplexed them. Wherefore, in matters of common concernment, difficulty, or danger, they hang upon their lips, as children upon their fathers; and the influence thus acquired by the six, the eminence of whose parts are found to be a stay and comfort to the fourteen, is the authority of the fathers. Wherefore this can be no other than a natural aristocracy diffused by God throughout the whole body of mankind to this end and purpose. . . . The six then approved of, as in the present case, are the senate, not by hereditary right, or in regard to the greatness of their estates only, which would tend to such power as might force or draw the people, but by election for their excellent parts, which tends to the advancement of the influence of their virtue or authority.[18]

Small wonder that this phase of Harrington's thought was ignored by a generation which held that the voice of the people is the voice of God—that the more widely the franchise is diffused among the lowly, the more surely will the representatives they choose be wise and good.

A constitutional device by which orders and interests are mutually and stably balanced has not in practice been easy to achieve, but it presented no difficulty to the agile mind of Harrington. It was so simple, he said in his shrewd and homely way, as to be "known even to girls." If two have a cake to share between them, " 'divide,' says one to the other, 'and I will choose; or, let me divide and you shall choose.' If this be but once agreed upon, it is enough; for the divident, dividing unequally, loses, in regard that the other takes the better half; wherefore she divides equally, and so both have right." The application of this idea to *Oceana* was rendered less difficult by the fact that in seventeenth-century England there were, roughly, but two "interests," those of the few agricultural rich and of the many poor. In *Oceana* the Senate was to "divide," that is, discuss and frame legislation, and the representatives of the whole people in

the House were to "choose," but without discussion. "As the *wisdom* of the commonwealth is in the aristocracy [the 'natural aristocracy diffused by God'] so the *interest* of the commonwealth is in the whole body of the people." [19] Harrington did not believe that the whole body of the people, or their representatives in the lower house, could be trusted to think and act constructively; he feared lest loquacious demagogues gain power over them. But he trusted so deeply in their sense of their rightful interests that he vested in them the power of the veto. If they were willing to abide by the "division" of the Senate, executives appointed by the Senate were bound to give it full effect; but if they did not choose to do so, some other measure had to be framed. Thus the power of the veto lay with the representatives of the people—an "indirect" referendum.

In this precise form, Harrington's device proved unworkable—one of the instances in which his inventive fancy outran his sense of reality. In Carolina and Pennsylvania it was discovered that representatives of the people simply will talk. Nor had Sieyès any better fortune in France. Said Napoleon: "Three hundred men who never speak a word—what an absurdity!" And again: "Those deaf and dumb legislators invented by Sieyès are simply ridiculous." [20] Yet the underlying principle is sound and essential to balanced self-government. In England the Cabinet and in America committees of House and Senate, "divide," deciding what measures shall be brought forward. Our House is sufficiently Harringtonian to "choose"—that is, accept or reject the work of its committees—very largely without debate. In both countries political parties decide upon candidates and outline measures, and the people "choose." But this is not done, God wot, without talking; nor should it be in any community more literate than Harrington's England. The fact that the State constitutions inspired by Adams, and also the national Constitution of 1787, escaped the pitfalls into which Sieyès fell is doubtless due to the Colonial experience of the Fathers with bicameral legislation, and to their regard for the English Constitution as it had developed since Harrington's time.

The equally difficult problem of insuring that only the wise and good be preferred to power Harrington solved by a device highly applauded by our Constitutional Fathers, indirect election. A college of local dignitaries, elected by the people, was to elect the leaders of

the nation. Harrington believed implicitly that if the suffrage were sufficiently "popular" the electoral college would be sensibly chosen and would in turn choose wisely. "Where men excel in virtue, the commonwealth is stupid and unjust if accordingly they do not excel in authority." [21] This device was adopted in America, notably in the Maryland Constitution, and the Constitutional Convention applied it to both President and Senate. *The Federalist* praises it, without stint and without contradiction, as "refining" and "filtering" the will of the people. But, maugre Harrington, our commonwealth too often proved "stupid and unjust," developing corrupt party machines and plutocratic bosses; so the rising spirit of democracy demanded and achieved the direct popular election of President and Senate. The problem of the preferment of the wise and good remains unsolved—has long ceased to be even stated.

As to the representation of interests, Harrington's ideas were similarly acceptable to the Fathers and are to-day similarly outmoded—a rising scale of qualifications, mainly financial, for voters, Representatives and Senators. The few who were rich were to have an equal power against the many poor. In point of fact, the lines of cleavage between orders and interests were still largely the same. Social and economic conditions were as simple as they have since become complex. The degree of a man's material wealth corresponded roughly but effectively with the degree of his education and experience in large affairs, with his patriotic vision, and thus with his ability to serve the state. The moderately well-to-do might safely be intrusted with the power of voting for minor offices and with holding them; but only the moderately rich could be relied on for experienced ability in large affairs. All the people were to vote except those so poor as not to be really independent, and the representatives of "the many" in the lower house were to have the veto power of not "choosing." But only those were to "divide" who were above the pinch of circumstance and citizens of the larger world.

Our Constitutional Convention left electoral qualifications to the several States. This was partly because the economic changes of a century and a third had made it difficult to fix requirements that would work uniformly—among merchants as among planters, in the North as in the South. Tact was advisable in a situation charged with explosives. But it was partly because the States already had

property qualifications which seemed on the whole acceptable. Moreover, the balance of interests seemed largely to have been assured by the balance of orders which was to be achieved by indirect election. As was the case with *check* and *balance, order* and *interest* were frequently used with little discrimination, even by Harrington and Adams, and for a similar reason. Where there was a balance there was a check and where there was an order there was an interest.

In Oceana there does not appear to have been a property qualification for voting; the same end was arrived at in another and very interesting way. No man in service to another could vote "while such" for fear of the influence of his master; and any one who had "prodigally wasted and spent his patrimony" was incapable of either voting or holding office. Only those are "freemen or citizens" who "attain to liberty—that is, to live of themselves." To be of the senatorial order and interest one had to have an annual income "above one hundred pounds a year in lands, goods or monies." Such as these were "obliged to be of the horse" and only knights could be elected to the Senate. Neither by thrift, inheritance or marriage, nor by all three, could any man have more than two thousand pounds a year—"that the power can never swerve out of the hands of the many."[22] If Harrington's property qualifications seem to us at odds with the rights of man, it is well to remember the milieu in which he lived. He was "the most uncompromising republican of his age." He frankly if tactfully avowed his republican belief to his friend the first King Charles and continued his agitation under the second until he was clapped in the Tower and driven mad. It is scarcely to be supposed that he had the fell design "of placing property above persons." Precisely what his motive was is an interesting subject of speculation.

V

His followers in post-Revolutionary America were in many ways more fortunately placed. The broadly diffused ownership of land which he had dreamed was here an accomplished fact, and its continuance was assured not only by the extent of our domain but by laws, such as he had called for, against entail and primogeniture. Like the fabled folk of Oceana, we had no King, no hereditary aristocracy. And the people of the Colonies, one and all, had had two

centuries of generally successful experience in self-government. The groundwork was prepared for free institutions of a breadth and perfection unexampled in history.

There was, however, another side to the picture. Those who see only from the point of view of the modern democratic dogma, hold that our Revolutionary forefathers were reactionary in hedging about the rights of citizenship and of office with qualifications of mere property; but the truly historic imagination must regard them primarily from their point of view of the eighteenth century, vastly different from ours. Since the tragic fall of the Roman Republic, the only example of successful self-government on an extensive scale was contemporary England. Success there had been the creation of the very class which we lacked, election to Parliament being mainly controlled by the King and individual peers. Even where an election represented the real choice of the voters the franchise was often more restricted than with us. Narrow as the Colonial franchise seems to-day, it then marked the high water of popular rights since the republics of Antiquity. It had, in fact, been largely made so as result of the native American impulse toward independence and democracy, which was steadily resisted by the home government. Few but the most radical would have favored it except for the existence of the very authorities against which it was levelled.[23] So long as the royal governor and the veto of the crown endured, there was no real danger of democratic turbulence. After the Revolution, the shoe was on the other foot. Having cast off monarchy and aristocracy, we were venturing upon the sea of republicanism where the boldest had suffered shipwreck, and the winds of unlimited democracy were already whistling.

Was it strange that the Fathers held firmly to chart and compass, such as they were? Their liberalism was assuredly circumspect, but it was not the less genuine. Should it be necessary to insist that the men who fought and financed the Revolution were not Tories? In place of the majesty of kingly birth, the imposing panoply of titled riches, they were setting up scraps of paper. How should they foresee that we were destined in one short generation to revere our Constitution as we had revered the old emblems of royal authority—knowing perhaps as little of it?

When John Adams drafted the Massachusetts Constitution of

1780, the Revolution was in perhaps its darkest hour, largely because men everywhere, taking literally the declaration that they are all created equal, were tending more and more to deny authority. It was indeed bitter that the one idea which Jefferson had added to Adams's long-fought case for independence should seem to Adams radically false—and to the world the most notable and quotable. The Virginia *Declaration of Rights* of 1776 and *The Essex Result* of 1778 had said only that men are "born equally free," and he took over the phrase in his draft.[24] To him, the prime virtue of freedom is that it gives scope to achievement—to inequalities of ability and wisdom roughly but very generally registered in property. Democratic Sam Adams was member of the drafting committee, but he did not object to property qualifications for voting that were half again higher than those, modelled on contemporary English practice, which prevailed before the Revolution—when he was at once fighting the royal authority and relying upon it to preserve the state from anarchy. Even so the qualification was not high—a gross estate valued at sixty pounds or an annual income of three pounds, which equalled in specie two hundred dollars and ten dollars. The net result was roughly the same as in Oceana, a franchise extended to all who "attain to liberty—that is, to live of themselves."

Mr. Samuel Eliot Morison, in his acute documentary study of the struggle over the adoption of the Massachusetts Constitution, describes this as "a gratuitous insult to the unpropertied class." Mr. James Truslow Adams quotes Morison's phrase, repeats the long familiar false fling at Adams's subserviency to "the well-born," and adds a charge that, in his view, their property must "be protected, whatever happens to 'persons.'"[25] Coming from historians in general so thoroughly informed and so impartial, these are striking instances of the distortion of perspective wrought by the Revolution of 1800. Doubtless some of the Fathers held too firmly for property as against persons; but their dominant idea was the truth—obvious when stated but long lost sight of—that, so far as is humanly possible, only those should vote who are capable of some degree of political judgment. This is not merely for the sake of the well-to-do but for their own sake as dependent upon the welfare of the community as a whole. The tyranny of industrial wealth being as yet unknown, the nearest way to the oppression of the indigent was to

put directly in their hands the reins of government and the control of property.

That idea is to-day in process of revival. The States have begun to require for the franchise a strict literacy test. Enthusiasts for the new psychology are advocating the exclusion of defectives by mental tests. The purpose in view does not shock us, though many still doubt the adequacy of such examinations. To the Fathers, the possession of some little property indicated both that the owner, as they put it, had "a stake in the country" and that he had at least enough character and ability to say which of his neighbors was best fitted to represent his interests. Property was held "sacred" as a matter of order and justice, but also as the best available criterion of "goods of the mind." A return to the property qualifications may be neither possible nor desirable; but one may well ask whether in actual practice, literacy and mental tests would be more fair.

The wide-spread acceptance of the old belief in the property test is evident in the very documents adduced by Mr. Morison and Mr. Truslow Adams. The Massachusetts Convention of 1780 submitted its "gratuitous insult" for ratification to all adult freemen, unqualified as well as qualified by property. The "beast," being "sick," must be allowed to physic himself. In an accompanying statement it admitted that, temporarily, the franchise restriction would bear hard upon young men living on "a part of a parental estate, expecting the fee thereof," and on those "just entering into business"; but it pointed out, in a phrase very like Harrington's, that it would debar permanently none but those given over to "idleness of Life and profligacy of Manners." Mr. Morison discovered that, in the case of two articles of the new Constitution, the Convention, under stress of the Revolution, found it necessary to do some "juggling" with the returns in order to show the requisite two-thirds majority of all freemen; yet he records that the clause doubling the property qualification received a full two-thirds vote. "An important section" of the men of Massachusetts thus "formally consented to its own disfranchisement." Their political mood was still very largely of the kind that Bagehot called *deferential*. Or was it that even the humble understood what the nineteenth century so soon forgot? [26]

Adams again followed Harrington (and also Theophilus Parsons) in providing that, whereas the lower House represented persons pro-

portionately, the Senate should represent property. It did so in a double sense. First, each senator was to have an estate worth $1,000 in specie—a sum which would not exclude any moderately successful man. Second and especially, each district was to have one or more senators according to "the proportion of the public taxes paid by the said district." [27] Thus no measure could become law against the will of the representatives of a majority of the property of the State, themselves well-to-do.

It must not be forgotten, however, that though the Senators were elected on a property basis, they were supposed to be of "the wise and good" and as such to consider first the prosperity of the Commonwealth as a whole. Parsons and Adams follow Harrington in laying chief emphasis upon this. Also that, just as the Constitution proceeded from the entire body of freemen, so it could be amended. Property qualifications began to be repealed even before the Revolution of 1800, but this double-dyeing of Massachusetts Senators in property was not altered until 1820. Many or most of the Fathers in all States doubtless understood that phrase of Adams's and Hamilton's, politically so unfortunate, "the rich and well born." James Madison, future democrat and disciple of Jefferson, approved of all it meant, and in *The Federalist*—and incurred no ill effect. The good of the nation as a whole, he held, even liberty itself, depends upon protecting the minority of those who have against the majority of those who have not. He concluded: "To secure the public good and private rights against the danger of such a faction [the unpropertied class], and at the same time to preserve the spirit and the form of popular government, is then the great object." [28] In brief, the life of republican institutions depends upon a balance of orders and interests.

In seventeenth-century England, neither democracy nor communism, though both were already vocal, loomed as portentously as in America after the Revolution. It was still possible for the sternest English republican to recognize a "natural" aristocracy. Harrington, balanced always in judgment, speaks freely and boldly: "An army may as well consist of soldiers without officers or of officers without soldiers as a commonwealth, especially one that is capable of greatness, [may consist] of a people without a gentry or a gentry without a people. . . . There is something, first in the making of a

commonwealth, then in the governing of it, and last of all in the leading of its armies, which, though there be great divines, great lawyers, great men in all professions, seems to be peculiar only to the genius of a gentleman."[29] This prejudice against divines, and especially against great lawyers, John Adams could scarcely be expected to share; but he believed firmly not only that a considerable property is evidence of mental and moral fitness to lead but that goods of the mind are likely to be handed down together with goods of fortune. "You and I," he wrote to his kinsman Samuel, in his downright way, "have seen four noble families rise up in Boston,—CRAFTS, GORES, DAWES, and AUSTINS. These are really a nobility in our town, as the Howards, Somersets, Berties etc., in England. Blind, undistinguishing reproaches against the aristocratical part of mankind, a division which nature has made and we cannot abolish, are neither wise nor virtuous."[30] Can any Darwinian say less? Except of course, in the most unlikely case that he finds himself a political candidate in a Fundamentalist community.

Experience under the Constitution suggests that it would have been a work of supererogation to require that Senators be rich. Our lip-service to the democratic dogma has been obsequious and persistent, but we are still of the steady-going, property-respecting stock of the Fathers. Between elections, wild ideas are heard in the land, and whenever the economic shoe pinches wild men are put forward for office. But by and large our lawgivers, though they fall far short of being our wisest and best, have been sensible and honest, imbued with the responsibility of their high office and its dignity. The democratic dogma has been of evil effect chiefly in that it has warped our understanding of the thought and purpose of the Fathers. To the true nature and utility of the Senate, John Adams was peculiarly alive, and was not less so by virtue of his darling "science" of politics than by virtue of his deep knowledge of his own obstreperously vain ambition. Persistently misunderstood, he persistently repeated that he cared only for the aristocrats of nature, and was no more solicitous to give them due representation than to clip their claws. Here is a second version of the idea:

In M. Turgot's single assembly, those who should think themselves most distinguished by blood and education, as well as fortune, would be most ambitious. . . . It is from the natural aristocracy in a single assembly that the

first danger is to be apprehended. The only remedy is to throw the rich and the proud into one group, in a separate assembly, and there tie their hands; if you give them scope with the people at large or their representatives, they will destroy *all equality and liberty, with the consent and acclamation of the people themselves.* They will have much more power, mixed with the representatives, than separated from them. . . . But placing them alone by themselves, the society avails itself of all their abilities and virtues; they become a solid check to the representatives themselves, as well as to the executive power.[31]

The italics in the prophecy of what was about to happen in France are his own.

VI

The allusion to a single executive as a co-ordinate branch registers the matter as to which constitutional thought had most signally advanced since Harrington. To the antique theory of the separation and balance of powers, implicit in a "mixed" constitution, Harrington had declared full allegiance. "As these two orders of a commonwealth, namely, the Senate and the people [meaning their representatives in the lower house] are legislative, so of necessity there must be a third to be executive of the laws made, and this is the magistracy, . . . whereby [the constitution] partaking of the aristocracy as in the senate, of the democracy as in the people, and of monarchy as in the magistracy, is complete." But his ideas were crude when viewed in the light of subsequent English developments. In Oceana the "magistracy" was to be plural, the chief executive being hampered by commissioners of the seal, of the treasury, and so forth, and also by a council of state, whose concurrence by vote was required in executive acts. Antique precedent is evident in Censors, an Orator, and in the chief executive who, being commander-in-chief of the army, rejoiced in the title of Strategus. Far from being a truly independent branch, these executives, one and all, were to be, in the last resort, dependent on the Senate. Neither the Stuarts nor Cromwell had given Harrington an exalted idea of a single, independent executive; and it would have taken a prophet indeed to foresee in what literal sense monarchy was to become part of the constitutional balance. The Cromwell-like hero of *Oceana,* having lent his authority to the establishment of the constitution, was to step down and out as Cincinnatus returned to the plow—which was perhaps what Cromwell meant by being *trepanned* of his power.

Furthermore, as was the case with Locke a generation later, Harrington confused the executive function not only with the legislative but with the judicial.

By 1780 John Adams and his colleagues had experienced an illumination. The attempt of George III to control colonial judges had taught that the judiciary also should be thoroughly independent. The Massachusetts Constitution made them appointive by the Governors for life or good behavior. And, though the fact has not been duly stressed, it established a mighty innovation by explicitly giving them a review of acts "repugnant or contrary to this constitution." Both ideas were, however, widely held in the new States. They were adopted as a matter of course by the Federal and ratifying conventions.[32] Meantime the English Whigs had shown how a single executive could profitably be brought within the scope of the balance. That George III had upset this balance by asserting a corrupt sway over Parliament Adams saw clearly—as we may see that Parliament has upset the balance by reducing the Crown to practical nullity. Such facts illustrate the historic theory—negatively. As to the proper working of the executive balance Adams quotes Swift, who in 1701 expounded the sincerely constitutional practice of William III. Half a century later the concept had been popularized and given supposed authority by Montesquieu; but Adams, who was not often impressed by "Gallick" foreigners, prefers to trace it from its historic emergence.

> The true meaning of a balance of power [wrote Swift] is best conceived by considering what the nature of a balance is. It supposes three things,—first, the part which is held, together with the hand that holds it; and then two scales, with whatever is weighed therein. . . . The balance must be held by a third hand, who is to deal the remaining power with the utmost exactness into the several scales. . . . When the balance is broken by mighty weights falling into either scale, the power will never continue long in equal division between the two remaining parties; but, till the balance is fixed anew, will run entirely into one.[33]

A constitutional king, Swift added, "may be the weakest" of the three and yet by "address and conduct" keep the balance even between the two Houses of Parliament—alluding to the royal veto.

Under the republican schemes of Harrington and Adams the veto was far from final, power to overthrow it recurring to the people, at frequent intervals. But whereas Harrington intrusted it to the

dumb recalcitrations of the lower house, Adams, in his draft of the Massachusetts Constitution, followed the English practice by intrusting it to the executive. He gave the governor an absolute veto.[34] But he provided also that he hold office for only one year. Thus his use of the veto was subject to an immediate popular referendum. The Massachusetts Convention rejected this idea, enabling the two houses to pass a bill over the Governor's veto by a two-thirds majority—which provision also the Federal Convention adopted. But to the end of his life Adams believed firmly in his absolute executive veto coupled with an annual referendum to the whole body of voters.[35] Those who regard him as a mere partisan of "the well-born," of "property" as against "persons," may consider which plan shows the greater reliance upon the popular will.

VII

In his fundamental conception of republican government however, Adams was at one with Harrington. The prime essential of liberty is not individual equality but a balance of orders and interests. In a "simple democracy" there is "no freedom or Justice" for any but the gross majority, and for them only so long as it does not "degenerate" into "the vices congenial to it"—mob violence and dictatorship. When that happens "the ruling party, no doubt, will be active and bold; but the ruled will be discouraged, browbeaten and insulted without a possibility of redress but by civil war."[36] Where a due balance is maintained, the individual is enabled to obtain freedom as member of his order or interest, a freedom bounded only by the higher interests of the nation as a whole. As the son of a laboring farmer and shoemaker, Adams himself had found that the humblest member of the humblest order may develop his abilities to their full stature and scope. "There arise, in the course of human life, many among them [the people] of the most splendid geniuses, the most active and benevolent dispositions, the most undaunted bravery. The moral equality that nature has unalterably established among men gives these an undoubted right to have every road open to them for advancement, in life and in power, that is open to any others. These are the characters which will be discovered in popular elections and brought forward on the stage where they may exert all their faculties and enjoy all the honors,

offices and commands, both in peace and war, of which they are capable."[37] Thus in the American republic which Adams intended orders were not fixed, as they had been throughout history, but fluid and eternally changing. In modern usage, *democracy* and *freedom* are all but synonymous; to the Fathers they stood for ideas forever irreconcilable, antagonistic.

This conception of the balance, as Adams knew well, is tinged with political idealism. "It has been said that it is extremely difficult to preserve a balance. This is no more than to say that it is extremely difficult to preserve liberty." Yet he felt that there was warrant for hope. "Such a balance as has been sufficient to liberty has been supported in some nations for centuries together."[38] It may be added that in the United States, in spite of the transformation which the Revolution of 1800 effected in our political theory, the mere governmental mechanism set up by the Constitution—checks that were originally identical with balances or intended to be so—have averted for a century and a half many or most of the logical consequences of democracy. Yet to-day there are signs not a few that the tripartite legislative balance no longer gives full scope and effective interplay to the clashing of orders and interests. The national life has become so multifarious and so complicated as to resemble the engine of an automobile rather than the cart of Franklin's trope, operated though it was by four oxen. If we really reverence the intention of the Fathers, we shall not think of possible amendments in terms of the political equality of individuals but—following Harrington and Adams, and indeed all the great Constitutional Fathers—we shall think of them in terms of the moral equality of orders and interests. Our much lauded ideal of individual liberty, so frequently shattered in practice, must be supplemented and strengthened by the idea of collective liberty—the right of distinct groups in the nation, and of the nation as a whole, to work out among themselves a common destiny.

In the Constitutional Convention and *The Federalist,* the debts of the Fathers to Harrington were not specifically acknowledged. The reason is suggested by an incidental remark of John Adams's: "Harrington's authority is not of great weight with some men."[39] The style of *Oceana* is as lightly familiar, as colloquial and humorous, as the knowledge revealed is vast and the originality profound;

and it is the fate of such works to be more remembered than quoted in the parliaments of men. In this as in many other ways Harrington presents the strongest of contrasts with Montesquieu, whose oracular generalizations—often borrowed without acknowledgment when sound, and most misleading when most striking—re-echoed in the Constitutional Convention. Adams cited the gifted Frenchman with the respect which was *de rigueur,* but formally and non-committally. His acknowledgments to Harrington are explicit and warm. The economic balance he calls "a noble discovery, of which the honor solely belongs to him, as much as the circulation of the blood to Harvey." "If this is not the foundation of all politics, as Toland asserts, it is of so much importance that no man can be thought a master of the subject without having well weighed it." He ends with a refrain that runs through the three volumes of his *Defense:* "M. Turgot, it is plain, has not the least idea of it."[40] That he did not pillory also the unicameral Franklin, scores one for his strenuous if intermittent tact.

VIII

To the idea of collective liberty as applied to the nation as a whole, John Adams was less receptive than Harrington and much less so than the Constitutional Convention. His vision had a limitation which is strange indeed in a man who at the age of twenty had foreseen our national greatness. Throughout his *Defense,* his mind centres on the States as sovereign individuals. Bold as he was in opinion and in conduct, he seems to have been terror-stricken at the project of organizing and duly balancing the thirteen States as a single economic and political body.

An excuse may be urged in the fact that he had been long absent in Europe when the break-down of the old Confederation brought misery to the people and disgrace to the nation, and was thus cut off from the advance of thought at home. Yet his position as Minister might well have opened his eyes. Time and again his mood was profoundly troubled. In official letters of 1783–5 to Robert Morris, to Jefferson, to Franklin, and especially to Jay and Robert Livingston, he expresses an abhorrence of our national impotence and dishonor no less keen than that which cast a gloom upon the heroic courage of Washington and tortured the knightly soul of Hamil-

ton.[41] Yet his thoughts, instead of leaping forward to "a more perfect union," seem always to slip back upon the old idea of independent concurrent action by the several States.[42] In an unofficial letter of the same period to his friend Francis Dana he says: "Many gentlemen in Europe think the powers of the Confederation are not adequate. . . . They may be right, but I am not yet of their opinion." He admits that "most certainly the resolutions of Congress must have weight"; but the only means he proposes is not that adequate powers shall be granted to it but only that, once more as at the outset of the Revolution, the States shall send to Congress their ablest and most eminent men, whose authority they must respect.[43] Here in sober truth he has the cart before the horse. The decline in the personnel of the old Congress dates from the moment when the collapse of its paper currency left it only the power of pleading with the States for money, and of sending ambassadors abroad to beg and borrow. Thereafter for the most part men of ability and authority who were not generals or foreign ministers preferred posts in the States. For once in a lifetime Adams found himself in agreement with Franklin. Unicameral though the old Congress was, it had been a thing of might in the brief years of its glory when he knew it best—and it had been most appreciative and loyal to him.

The truth seems to be that, with all his breadth of imagination and boldness of conduct, his mind was retrospective, historical, rather than creative. A congress of ambassadors from independent, sovereign States—ambassadors humbly subject to recall and with very imperfect executive and no real legislative authority—was of the historic type of confederate government; of himself and unaided, he could conceive of nothing better. So impervious was his mind that, though he seized upon the fragment of Polybius expounding the constitutional balance within the single state, he ignores Polybius's tragically instructive history of the Achæan League.

While furiously writing the *Defense* of his Massachusetts Constitution, his mind collided with the great movement to apply the principles it embodied to the new Federal government. The result is illuminating as it is ironical. To Hamilton and to Washington, the need that the nation as a whole have a bicameral legislature, an independent Supreme Court and a powerful single executive had

long been clear as day. Adams discusses the question in the concluding chapter of his first volume; and, though he finds himself forced by the logic of his general position to declare in the end for the national balance, his thought gropes so painfully as to be almost unintelligible. When he was finishing his third volume, the text of the proposed Federal Constitution was published. He justly calls it "the greatest single effort of national deliberation the world has ever seen," yet hedges the sentence about with so many doubts that Rufus King, writing to Theophilus Parsons, speaks thus dubiously of its value as Federalist propaganda: "If the Doctor's opinion is not worth the postage, you value it much less than I do." [44]

Nor was the mood exorcised by time and by experience. The truth seems to be that he hesitated to give up the idea of virtual State sovereignty, hitherto unquestioned in confederacies, which it was the first aim of Hamilton and Washington to abate. In 1809, after Jefferson's Presidency, he wrote his kinsman Cunningham: "Seventeen wheels within one wheel, seventeen empires within one empire, seventeen sovereignties within one sovereignty, seventeen *imperia* within one *imperio,* will tell in time." He refers to Shays's Rebellion and to the Whiskey Rebellion of 1791 and glances forward to greater sectional upheavals—the first of which came with the War of 1812.[45] In 1814, in his series of letters to John Taylor of Caroline, he similarly hints a distrust arising from the fact that States so many and so various "are balanced against the national government." [46] True, he professed great loyalty to the Federal Constitution, crying *"Esto perpetua!"* And he was not above boasting that his "system of Massachusetts" and "the system of the United States" were "the same, as much as an original and the copy are the same" —though he knew well enough that other constitutions shared its honors.[47] Yet it is none the less manifest that he had been without prevision of the national character of the new union—the one original and epoch-making feature of the Federal Constitution, to which so much of our good fortune is due—and that to the end of his days he distrusted precisely that feature.

Such blindness may not be excused, but in some measure it may be explained. It is well to remember that Adams was the first great victim of the Revolution of 1800, and that in the doctrine of individual equality and direct popular control which it caused to prevail

he had always recognized the fertile seeds of class strife. Also we must not forget that his distrust was shared by Washington and Hamilton and has been largely justified. After the war of 1812, thanks to the opposition of States to nation, we had the Civil War. Nor are we of to-day quite free of the danger of factional strife and sedition. So surely as the Constitution lags behind the flux and change of all things human, so surely must we expect clashes of orders and interests which will be, to say the least, as menacing as those of the past. In the long perspective of the future, John Adams's doubts of 1787 and 1809 and 1814 may have sad justification.

IX

In the perspective of to-day, his blindness to the issues of 1787 must be classed with a similar blindness in the father of all political theory. Aristotle had been in his youth a disciple of the great Pan-Hellenist, Isocrates; he had lived at the court of Philip of Macedon when the actual union of the Hellenic world was taking conscious form; he was tutor to the young prince who so soon spread Hellenic culture and dominion throughout the ancient world—and who, if he had lived, might well have established a Hellenic empire comparable to that of the later empire of the Romans and capable of resisting it, or at the least of modifying it powerfully. But though Aristotle lived to witness the most promising dawn of a new era, his political outlook to the last was confined to the Hellenic city-state of his youth; his political ideal centred in a tiny commonwealth cut off by absolute sovereignty and a rigid independence from all the great streams of world progress.[48]

The Revolution of 1800 was such a stream, and it is still in full course. Being a statesman as well as a philosopher, John Adams found himself at the very vortex of the conflict between the new order and the old; his presidency was the first battleground of Federalists and Democrats. Yet the net result was the same. As regards the conflict ot political theory, his ditch at Braintree buried him as completely as Aristotle was buried in Chalcis. The centre of interest shifted to Hamilton and Jefferson, who were protagonists of the destiny of the Federal Republic, and especially to Washington, who gave it its original vigor and ultimate inspiration.

To understand what this conflict implied, and still implies, it is necessary to consider briefly the pronouncements of Walter Bagehot and his American followers against the theory which, in the face of over a century of bitter strife, the Constitution still embodies.

CHAPTER IX

BAGEHOT AND THE CONSTITUTIONAL BALANCE

I

It was once our fashion, ridiculed by Von Holst with heavy hand, to regard our Constitution as of "miraculous" origin—a Pallas full-armed that sprang from the brain of the Federal Convention. That childlike idea probably arose from chance utterances of the Fathers. Though they knew that their work had grave imperfections, many of them, and notably Washington, were so amazed and thrilled by its success that they recognized in it the "visible . . . finger of Providence," called it "a miracle."[1] In the nineteenth century an idea arose which is perhaps more plausible and certainly more misleading—that, far from being a miracle, the Constitution resulted from a blunder.

II

Walter Bagehot declared that the leaders in the Federal Convention "thought they were copying" the English Constitution, but that what they copied or embodied was only its obsolete "literary theory," which was far as the poles from the actual fact. Contrasting the cumbrous slowness of our procedure and its lack of a single responsible authority with the celerity and "responsibility" of English "parliamentary" procedure, he was moved to genial ridicule. "Sensible shareholders, I have heard a shrewd attorney say, can work *any* deed of settlement; and so the men of Massachusetts could, I believe, work *any* constitution."[2] Bagehot's account of the "blunder" in which our Constitution originated was plausible and brilliant. It moved Woodrow Wilson to write his first and ablest book, *Congressional Government;* and it inspired some of the most brilliant pages of John Fiske's *Critical Period*. Both echoed Bagehot's ideas and phrases, Wilson even sanctioning the word *blunder;* and both suggested that our governmental procedure be remodelled on the English plan.[3] Ever since, in the minds of those best qualified to

judge, our constitutions, and especially the theory upon which they were constructed, have been under a cloud. Professor Bourne, perhaps the ablest critic of *The Federalist,* ignores Harrington and Adams and regards our Constitution as embodying the theory of the English Whigs during a period merely transitional. Correa Moylan Walsh begins a volume expounding "the political science of John Adams" with this confident sentence: "The theory reviewed in this book is obsolete." Justice Oliver Wendell Holmes, whose eminence as a member of the Supreme Court gives his verdict a peculiar significance, quotes Bagehot and lends the weight of his authority to the statement that "the makers of our Constitution" were "misled" by Montesquieu.[4]

It need scarcely be said that the American people have not yet accepted this Bagehot-Wilson-Fiske idea, that the forty-nine instruments under which they somehow manage to exist are forty-nine blunders. Yet the curious fact is that no one has ever questioned it. One reason may be that the inquirer finds himself confronted at the outset by a most puzzling paradox. Though we were pioneers of liberty in the modern world and high-priests of democracy, our current ideas of government are at once vague and contradictory. Lincoln declared, echoing the Declaration of Independence, that our Government is "dedicated to the proposition that all men are created equal," that it is a government "of the people, by the people, for the people"; and we not only accept the statement but revere the Gettysburg Address as the noblest expression of American doctrine. In the face of authority so great, one may be pardoned for repeating that our forty-nine constitutions know nothing of this idea. They are dedicated to the proposition that men are vastly unequal—that the true aim of liberty is to enable them to realize and enjoy the full measure of their inequalities, and that the true purpose of a constitution is to insure that the wisest and best shall rule. In the words of the Fathers, ours is a balanced constitution of the type first commended by Aristotle, in that it gives "the few" an equal power as against "the many." Idea and phrase were repeatedly voiced in the works of Adams; in the great Federal Convention; by both Madison and Hamilton in *The Federalist;* and, of course, in the ratifying conventions of the several States.[5] In brief, even as the men of 1776 were declaring it self-evident that all men are created equal, they

were setting up governments that flout the idea—and we have never ceased to proclaim in the same breath undying loyalty to the Declaration and to our Constitutions.

From the outset the equalitarian idea, voiced by Jefferson and echoed by Lincoln, has steadily increased in recognition and authority, making our people in many ways the most "democratic" in the world; but the same may be said of our balanced constitutions, which have rendered our governments the most stable. During the Revolution, a few States, led by Pennsylvania, adopted unbalanced unicameral instruments embodying the equalitarian idea, and in the Federal Convention a few delegates, notably Franklin, spoke against a Senate and a single strong executive. So short-lived was the movement that when the Democrats came into power in 1800 they vied with their defeated rivals in proclaiming loyalty to the Constitution as written. For a few decades the more direct representatives of the people in the lower House took the lead in governing; but very soon leadership began to pass to a Senate intended to embody the "aristocratic" principle and to a President intended to embody the "monarchic" principle. The Supreme Court, which is intrenched beyond the pale of popular control, has enjoyed an even greater accession of prestige. In our own generation, the forces of direct democracy, rebelling against abuses of authority intrenched, called for the initiative, the referendum, the recall of judicial decisions, the direct primary. In many States they carried their point—but their equalitarian innovations have nowhere been clearly successful and are tending to disappear. Reformers still cry with fierce conviction, "Let the People rule!" But the people know in their hearts that, for their own good, those best able to govern should do so. Never was a nation more given to speculative phrases or more successfully pragmatic in fact—and more careless of the Socratic injunction to self-knowledge.

III

In other countries than ours, "responsible parliamentary" government is to-day itself on the defensive if not obsolete. Lord Bryce in his *Modern Democracies* disclosed grave doubts as to the future of popular rule; and the latest comprehensive critic of constitutional theory and practice, Sir John Marriott, admits that the English Con-

stitution has suffered a loss of prestige. Amid the passions and terrors of the late war, and the scarcely less acute passions and terrors of subsequent reconstruction, "responsible" government appeared in a strange new light. Its celerity and power vanished in face of the fact that it was liable at any moment to be overthrown by a single adverse vote in Parliament, and thus reduced to the necessity of appealing to a populace inflamed by passionate and plausible lies. Lloyd George in his Khaki Campaign, as we shall not soon forget, felt obliged to promise the people not only that he would "make Germany pay for the war to the last shilling, to the last farthing," but that his government would hang the Kaiser. The "parliamentary" representatives of France were no less misleaders when they kept from the French people all knowledge of our Senatorial round-robin warning them of the constitutional limitations on President Wilson's negotiation of a tripartite treaty against Germany. That suppression, politically indispensable under party government in view of the crisis in hand, gave rise to misunderstandings and charges of a "promise" broken which still poison the relations of three nations that should and might be brothers.

On the continent of Europe the so-called literary theory has had historic illustration—*a non lucendo.* Seven states that once essayed parliamentary democracy have reverted to various forms of autocracy. Reviews and book-shops are flooded with the challenge against universal suffrage and immediate rule by the majority. In a very able exposition and critique of the new democratic constitutions, Miss Headlam-Morley presents a striking conspectus of this failure when dealing with the forces at play in the modern world. Institutions born of English instincts and traditions lose their virtue when transplanted to alien soil. Nor is it yet certain that England will ultimately escape the historic failure of democracy unbalanced. There is much to be said for Richard Washburn Child's contention that the really hopeful essays toward the self-government of modern nations are being made by those who are accepting dictatorship as a transition to it.[6]

Bagehot himself very early conceived misgivings as to the future of the English Constitution—misgivings which his ardent disciples ignored. He was, indeed, oblivious of or unacquainted with the historic theory of the balance. He did not conceive an upper house as

an equal of the lower—representing the wisdom and virtue of a nation as vigorously as the lower House represented its will. To his mind, the chief value of the House of Lords lay in checking undue haste in an otherwise supreme House of Commons, and in revising bills that are faultily drawn—a function somewhat out of proportion to its supposedly superior knowledge and wisdom. He readily admitted that its services could be dispensed with if only the House of Commons were "ideal"—"perfectly representing the nation, always moderate, never passionate, abounding in men of leisure, never omitting the slow and steady forms necessary for good consideration." That he knew to be impossible; and so he praised highly Palmerston's proposal that life peers be created to make the Lords representative of the brains and character of the nation. Contemplating the defeat of this proposal, he despaired of raising the upper House to its due eminence and importance, sadly presaging that its future would be what it has been, "atrophy" and "inward decay." Yet in the first edition of his book he seems to have harbored no doubt that the House of Commons would continue as in the past to approximate the "ideal."

That was in 1866–7. In 1872, when the Reform act of 1867 with its further extensions of the franchise had come into operation, he wrote a preface for the second edition which is filled with forebodings of a future that is now the present. "No one will contend that the ordinary working-man who has no special skill, and who is only rated because he has a house, can judge much of intellectual matters. . . . The wide gift of the elective franchise will be a great calamity to the whole nation, and to those who gain it it will be as great a calamity as to any." It is as if he foresaw the Khaki Campaign and the union-inspired legislation which made possible the coal strike and the general strike of 1926–7, foresaw evils as great which may yet arise from a suffrage that has now no limit short of crime and idiocy. The Reform act of 1867, like subsequent acts of the kind, resulted from the fact that the Conservatives recklessly outbid the Liberals for popular favor, to the deep dismay of far-sighted men on both sides. Government by party was then universally accepted as essential to free institutions, but this defect in it troubled him deeply. Even his laughing fling at our balanced constitutions he now qualified in a very serious footnote glancing at the reconstruction of our

South: "How any free government is to exist in societies where so many bad elements are so much perturbed, I cannot imagine."[7] Yet the checks in our government which seemed to him so unfortunate prevented a bad matter from becoming much worse. On one point he had always been in accord with the Convention of 1787. The primary object of government, he held, is to govern—not to give instant effect to any chance demand of uninformed and passionate numbers. As early as 1860 he had written, apropos of the "destructive" effect of Mr. Gladstone's impetuous liberalism: "The questions which remain are questions of construction—how the lower classes are to be admitted to a share of political power without absorbing the whole power. . . . Destruction is easy, construction is very difficult."[8] That is the very practical question to which the far from "literary" theory of the balance addresses itself, holding that the hope of even an approximately "ideal" single chamber directly controlled by the masses is most illusory, most dangerous. If Bagehot had understood this when he wrote *The English Constitution,* he might not have written so cleverly or carried such conviction to his American admirers; but he would have spared himself the qualms and recantations of 1872.

IV

There is, of course, a certain truth in Bagehot's statement. In the English Constitution as it was in 1787, the balance of "the few" against "the many" was imperfect and the controlling power of the royal executive over that balance was destined soon to vanish. The process had begun by which government roughly corresponding to historic republican theory, to the theory exemplified by John Adams in the Massachusetts Constitution, was to verge closely upon the unicameral democracy which republicans have always abhorred. It is also true that the leaders of our Federal Convention did not foresee the ultimate result. But neither do we to-day.

For the idea that they did not understand how far these changes had already gone there is a specious but only a specious warrant. Hamilton wrote in *The Federalist:* "The King of Great Britain has an absolute negative on the acts of the two Houses of Parliament."[9] Likewise Adams—who, as our Minister in London, had every facility for knowing the contemporary fact—wrote in 1786: "The

Americans [in their State Constitutions] have not imitated it [the English Constitution] in giving a negative on their legislature [he means an absolute negative] to the executive power."[10] In point of fact, the royal negative was already obsolete in England: no act of Parliament had been vetoed since 1707. But George III had endeavored mightily to restore the royal power; and (perhaps to his chagrin, in view of our late Revolution) he had succeeded in doing so—not by restoring the veto but by a system of corrupt influence over Parliament. As against acts of the colonial legislatures, moreover, the Crown had exerted a veto down to the Revolution, as the men of 1787 were keenly aware. A mistake as to a trend of development so largely in the future was quite natural and was rendered highly plausible by the vogue of the facile generalizations of Montesquieu.

That is quite a different thing from a mistake as to contemporary fact. Adams said explicitly that he was speaking only of the "theory" of the English Constitution. Hamilton showed in his next sentence that, though ignorant of the future trend, he was thoroughly aware of present conditions. "The disuse of that power [the royal veto] for a considerable time past does not affect the reality of its existence; and is to be ascribed wholly to the Crown's having found the means of substituting influence to authority"—influence, that is, over "placemen" in Parliament. In the Pennsylvania ratifying convention, James Wilson referred pointedly to this. "The reason why [the King] did not exercise [the veto] was that, during all that time [he] possessed a negative before the bill had passed through the two houses—a much stronger power than a negative after debate."[11] In 1789 Roger Sherman wrote: "The [English] nation is *in fact* governed by the cabinet council, who are creatures of the Crown."[12] Precisely! A cabinet that was directly responsible to a Parliament elected by the people, and that was ultimately responsible only to them, had not emerged. Yet there were already prophets in the land. In the Virginia ratifying convention, Wilson Nicholas specifically predicted the ultimate supremacy of the Commons. The power of withholding supplies "is so great that it will in the end swallow up all others."[13]

The truth is that our constitutional Fathers were faced by one of those inscrutable paradoxes that beset observers of all things Eng-

lish. A constitution under which the Crown was, in point of fact, stronger in prerogative than it had been since the Revolution of 1688, was also, in point of fact, steadily tending to give unbalanced control to the lower House and to the people. As to the contemporary and operative truth, the Constitutional Convention was thoroughly informed. There has been a blunder but it was not theirs.

So inattentive was the youthful Woodrow Wilson to the thought of the Fathers, and to the records of the Convention, that he could say the Senate "was instituted principally as an earnest of the abiding equality and sovereignty of the States." The obvious fact is that the Senate was instituted principally as an earnest of the abiding equality of orders and interests, and of the legislative as against the executive. The idea that the States were equal and that their sovereignty would *abide* as against that of the nation was resisted by all the great Fathers and was ultimately accepted only as preferable to total failure of the Convention. As to the actual tendencies of his own time, Wilson was so mistaken that he presaged a steady increase in the power of "Congressional" government and a corresponding decline in the power of the President. He could perceive only one remnant of independent executive authority. The "initiative in negotiations" gave the President a "power of compelling compliance on the part of the Senate." By "getting the country into such scrapes," by making it so "pledged in the view of the world to certain courses of action that the Senate hesitates to bring about the appearance of dishonor," he was able, as the young man surmised, to make "its refusal to ratify" a treaty impossible.[14] The truth of that vision he put to the test in person at Versailles when he was confronted by the senatorial round-robin. But the failure of his prophetic power grieved him less, perhaps, when for the first time he saw, and made use of, the "monarchic" power which an American President was able to exercise over "responsible parliamentary" premiers.

To say that the Fathers were "trying to copy" the British Constitution is to fall into a looseness of phrase rare in either Bagehot or Fiske. It is not even true that they were working on *the* theory of that constitution, literary or otherwise. The most one can say is that they were working on *a* theory of self-government familiar in its main outlines since classical antiquity, of which the English Constitution was thought to be—in fact had been and still largely was—

the most nearly perfect example. The difference is far from negligible. Leading members of the Convention of 1787 had studied constitutional history and writers on government from Aristotle to Blackstone; and what they had read had been deeply confirmed by experience under colonial and State constitutions. They were guided by a fund of historical knowledge of free institutions and of experience in their working which was unexampled in any generation since the world began.

V

There is considerably more truth in Bagehot's criticism of our strict separation of powers. In the workaday course of legislation, responsible parliamentary government contrasts favorably with procedure elaborately balanced and checked. The popular will is more directly recorded, more ably and openly debated, more effectively embodied in legislation when the Cabinet sees fit. In fixing attention on all this, Bagehot and his American followers rendered great service.

The idea of a responsible executive was not, however, unknown to the Fathers. A cabinet council, elected by the legislature to aid and in some measure to control the executive, had been urged by Harrington; and, in various forms, it had been adopted in our State constitutions, notably the one John Adams wrote for Massachusetts. But the device was not working well. The Virginia council had disastrously hampered the executive during the Revolution. In the Federal Convention, many members favored such a council. Roger Sherman urged that the executive "be appointed by and accountable to the Legislature only," and argued that it should be "nothing more than an institution for carrying the will of the Legislature into effect."[15] What such proposals amounted to was an adaptation of the English Cabinet and Prime Minister—eliminating, of course, the corrupt and arbitrary influence of the King. It was a highly intelligent adaptation; at one stroke it anticipated all that is essential in modern English Cabinet Government. According to Fiske, "it would greatly have astonished the convention had they been told that this suggestion of Sherman's was a move in the very same line of development which the British government had been following for more than half a century." The fact appears to be

that they were in close touch with the British situation. To reproduce it, however, without the concomitant influence of "placemen" to strengthen the executive, would have been to set up an unbalanced government, making the executive a creature of the legislative. That was precisely what the Convention did not intend, and Sherman's proposal does not appear to have been even discussed. Doubtless it is to be regretted that, while insisting upon the separation and co-ordination of powers, the Convention did not devise a more workable scheme for their co-operation in legislation and in debate; but to suggest that they thought only, or even chiefly, of "copying" the English practice is to fall into an abyss of misconception. The failure of the proposal of a Cabinet Council as a link between Executive and Legislature is one of the most interesting episodes in the Federal Convention and altogether the most obscure. In due course we shall return to it. For the present it is enough to note that, confronted by a proposal identical with what was happening and about to happen in England, they rejected it in favor of the contrary idea and their own historic practice.

VI

Far from being subservient to English example, many of the ablest men of the time—including Adams, Madison, Hamilton, James Wilson, John Marshall and Fisher Ames—specifically congratulated the country upon making a signal advance over it.[16] According to a computation often quoted, out of 658 members of the House of Commons, 487 were nominated by landed proprietors, many of them members of the House of Lords. The "patriot king" dined on boiled mutton and carrots that he might spend huge sums on his majority in the Commons—seats being valued at some seven thousand pounds. These figures will doubtless be reduced when Namier has extended his corrective researches through the reign of George III; and it has long been recognized that, in a way, the practice was not corrupt. Seats were legally recognized as property, and their sale was held to be legitimate.[17] But none the less the basic fact was utterly unrepublican. Even in the case of the small minority of 171 members who were really elected, the franchise was fantastically inequitable. By contrast, our Constitution was ideal. It was ordained and established by "the people of the United States," and their control of govern-

ment, though not immediate, was the most direct and powerful the world had ever known; under it, their representatives in the House, thanks to the power of the purse, had at all times a strangle-hold upon Senate and President. James Wilson likened it to a pyramid in the breadth and stability of its foundations; but he "wished to see" it "rise like a pyramid to a respectable point."[18] Precisely because original and ultimate authority lay with the whole people, it was indispensable that in workaday times the nation should enlist the services of its wisest and best.

To understand how deeply the English Constitution in its modern development is opposed to our own we shall have to pass to the events that led to the Philadelphia Convention and to the ideas that developed there.

BOOK FOUR

IN THE LABORATORY

CHAPTER X

WASHINGTON AND THE OLD CONSTITUTION

I

Those who trace our national Constitution to its origins note how early and how clearly Hamilton felt the need of it, how boldly and ably he fought for it always. They note how zealously Madison seconded him, with an intelligence which, if more cautious, was perhaps wiser, and was certainly more immediately practical. On the part of the Convention as a whole they note the rare combination of boldness and self-restraint which led, through mazes of doubt and pitfalls the most dangerous, to decisive victory. As to Washington they are curiously silent. It was out of experience gained as his aide and secretary, in close touch with Congress, that Hamilton first spoke. Madison's first labors were performed under his inspiration and authority. Until leaders of the movement toward the new Constitution secured his presence at the Convention as presiding officer, the boldest and most sanguine had little hope of success. Yet to those who delight in tag phrases Hamilton is the great Champion and Madison the Father of the Constitution.

II

It can scarcely be maintained that Washington was an authority on the "science" of government as John Adams and Hamilton and Madison were. One may scan his writings in vain for any systematic statement of theory. In the range of history there is no man who more fully obeyed the classical injunction, *Opera non verba,* in both its members. Yet to successful deeds thought of some sort is even more needful than to successful words, the penalty of error being far greater. With a little patience it may be possible to discover that, out of his experience in the Revolution and especially his dealings with the old Congress of the Articles of Confederation, Washington arrived very early and quite independently at most if not all of the basic ideas in the instrument of 1787.

The curious nature and process of his thought is nowhere better illustrated than in an incident of 1774. His good friend Bryan Fairfax, who ultimately became Lord Fairfax, confessed his loyalist leanings and invited counsel. Washington remarked that, without such a request, any proffer of his opinion would be "a piece of inexcusable arrogance"—his reason being that Fairfax had presumably "read all the political pieces which compose a large share of the *Gazette* at this time." Being asked, he did his friendly best. As to the basic matter of "taxation without consent" his conviction was strong if unreasoned. "An innate spirit of freedom first told me" that it is "repugnant to every principle of natural justice"; and "abler heads than my own" (as expressed in the *Virginia Gazette?*) "hath fully convinced me" that it is "subversive of the laws and constitution of Great Britain itself, in establishing which some of the best blood in the kingdom hath been spilt." Parliament "hath no more right to put their hands into my pocket, without my consent, than I have to put my hands into yours for money." It was at this time and in this mood that he offered in the Virginia Convention to equip a regiment at his own expense and march to the relief of Boston. Only by rebellion could Englishmen in America escape the fate of "slaves" as "tame and abject" as the poor blacks "whom we rule over with such arbitrary sway."

But note what follows. He knew very well that from the loyalist point of view the crucial question was "where the line between Great Britain and the colonies should be drawn." The learned made fine-spun distinctions between "external duties" which Parliament might impose for the regulation of trade, and "internal taxes" levied without consent to raise imperial revenue.[1] After a century and a half, this question still defies the English political theorist; it has yielded only to expediency and the rule of thumb. But though Washington could cite no other authority than those quoted in current newspapers he had a clearer sense of the situation than the most learned publicist; for he had that high type of intelligence which knows what it doesn't know. "For my own part, I shall not undertake to say."

His reticence appears to result from a distrust of the workings of his cerebral mind which is in striking contrast with his promptness in following what his "innate spirit" tells him. That he had the pro-

foundest belief in republican institutions, the profoundest interest in the constitutional fabric, his whole life is a witness. Two years later, in 1776, his State set about framing a government independent of England—important to Virginia and doubly important as model and inspiration for the sister States. His younger brother John was member of the Convention, and the difficulty and importance of the task prompted this admonition from the rebel General: "To form a new Government requires infinite care and unbounded attention; for if the foundation is badly laid, the superstructure must be bad." As to specific criticism he is characteristically silent, yet he had evidently a mind of his own. In the existing makeshift constitution "we have no doubt, some good parts. . . . Many bad ones we know we have." Then comes this sentence: "Every man should consider that he is lending his aid to frame a constitution, which is to render millions happy or miserable." Virginia had scarcely half a million people and the entire population of the colonies was less than three millions. Reserved as were his mental processes, his imagination fairly blazed when there was question of the united American people—and of their constitutions.

As to the origins of his strict and passionate republicanism, we know only that in youth he held the *Cato* of Addison in high esteem and dreamed of playing the young barbarian lover, Juba, to the patrician Marcia of Sally Fairfax. But it was clearly his fixed and guiding star. Speaking for the army of which he had just taken command, it inspired him to one of his few memorable sentences: "When we assumed the soldier, we did not lay aside the citizen." The words are memorable for something more than verbal force. At the close of the war George Mason wrote: "I am well apprised of your Excellency's strict attention to the authority of the civil power and thoroughly sensible how greatly and justly it has endeared your character to your fellow-citizens." [2]

III

In the civil power of the Confederation there were "many bad parts" and no man suffered from them more grievously. The Continental Congress consisted of a single chamber uniting all functions, legislative and executive and judicial, and was thus radically at odds with current constitutional theory. What this was, as applied to a

national constitution, is best exemplified in Franklin's Albany Plan of 1754, which was the true precursor of the Constitution of 1787, the Articles of Confederation being of a different derivation—not a development of current theory but a recession from it.

Both the Albany Plan and the Articles of Confederation have received far too little attention, having sunk into the oblivion to which the American mind consigns all failures, however important the lesson they teach. The Albany Plan has been radically misrepresented by historians of high authority.

Unlike the Articles of Confederation, the Plan was of the type of the several colonial constitutions. It called for a distinct and powerful executive—a President-General who, like the governors of the colonies, derived his authority from the Crown and represented its interests. His power was balanced against that of the legislature, a Grand Council appointed by the several colonial legislatures. England and united America were equally balanced against each other. Yet in all undertakings upon which they agreed the executive could wield the forces of a united continent. The basis of representation in the Grand Council was far more equitable than in the Continental Congress, approximating that in the House of Representatives as established in 1787. McMaster denies that the people were to be represented proportionally;[3] but the statement is radically misleading. The Plan provided that the smaller colonies have two representatives and the larger from three to seven "in proportion to the sums they pay yearly into the general treasury." Strictly speaking, the basis was property; but, thanks to the wide and generally equal distribution of wealth, the actual result would be a tolerably equitable representation of persons. It was far more equitable, certainly, than that which obtained in England—or than that of the subsequent Confederation, in the Congress of which Rhode Island had a voting power precisely equal to that of Virginia or Massachusetts. Hannis Taylor, apparently relying upon McMaster, says that the Albany Plan gave no power of direct taxation.[4] The fact is that it provided an equal excise. "The General Council shall *lay and levy general duties*"—an "excise on strong liquors" which were "pretty equally drunk in the colonies," and "a duty on liquor imported, of —— shillings on each license of a public house."[5] Thus, the Plan avoided the three chief defects of the Articles under which Wash-

ington labored as General: a divided and feeble executive, a grossly inequitable power of minorities, and lack of the power to levy taxes.

The only point in which the Albany Plan resembled the Articles, and departed from the type of colonial and State constitution which the Constitution of 1787 followed, was in its unicameral legislature. Yet a distinct effort was made toward bicameralism. For greater secrecy and despatch of the executive function, it was urged that there should be a small Council of State to work with the President-General—to be chosen by the Grand Council from the most distinguished men available, whether or not Grand Councillors.[6] This would have been the nucleus of an upper House with functions partly legislative and partly executive, analogous to those of our Senate. Historically this senatorial council seems to derive from the mechanism of the chartered companies by which at first several of the colonies were ruled, with its stockholders, its board of directors and its president.[7] But in the eighteenth century it had come to be explained by its analogy to the House of Lords and its balance against Commons and King. The rejection by the Albany Convention of the proposed upper House was perhaps due in some measure to Franklin's unicameral preferences, but was doubtless facilitated by the pressure of events. For the immediate purpose was not so much domestic and legislative as foreign and executive—to unite the colonies against the French and Indians and to supervise the settlement of the backlands. The driving idea, cogently expressed, was to avoid precisely the confusion and delay on the frontier that was even then resulting in the abandonment of young Washington at Fort Necessity.[8]

Thus the Albany Plan held all the germs of a united and decisive authority; if it had been adopted, the transition to our Constitution of 1787 would have been quite natural and perhaps not difficult. But neither England nor America was willing to grant an equal power to the other. "The Crown," as Franklin said in his old age, "disapprov'd it as having placed too much weight in the democratic Part of the Constitution; and every Assembly as having allow'd too much Prerogative." He added that, if adopted in 1754, the Plan would have deferred the Revolution "perhaps during another century."[9] In 1774, this idea was evidently held by Joseph Galloway: in the hope of avoiding the Revolution altogether, he attempted to revive

the Albany Plan with inessential modifications.[10] But the jealousy of royal authority which had defeated Franklin was now keenly accentuated. Galloway's plan was buried in scorn, and he became a Tory. A not dissimilar spirit continued to rage during and after the Revolution, when it was no longer a question of a royal "President-General" but of an executive elected by the American nation and recurrently subject to its will. The fact that colonial governors had so often been arbitrary in wielding the power of the Crown blinded the new States to the need of a united authority and vigorous executive action.

IV

The Constitution of the Confederation, under which Washington served as Commander-in-Chief, far from being a development of native tradition and prevailing theory, was what botanists call a sport, born of quite recent conditions. True, John Adams declared that it was modelled after historic confederacies, notably the Dutch Republic, and in a manner it may have been. But as to granting essential powers it was a recession even from these. Thus the Stadholder was also commander-in-chief of the army and able to secure compliance with requisitions for money, whereas the President of the Continental Congress was a civilian and at that a mere figurehead. He presided as "Mr. Moderator" but had less real power than many a member on the floor. The office appealed most to exhibitionists like John Hancock. Power resided, or was supposed to reside, in Congress and in the executive committees it appointed. But the members of Congress had no real independence, being subject to the will of the State legislatures that delegated them. The fact was that the Continental Congress had risen spontaneously out of the committees of correspondence among the several colonies which, during the years immediately preceding, had striven to unite the resistance to England. Confused and feeble as was the civil power, however, Washington was held—held himself—strictly subordinate to it, and especially in matters military.

So far as there was any national executive power, it was wielded by multifarious committees of Congressmen, the membership of which was constantly shifting and the measures of which were not valid until approved by Congress as a whole—which, in effect, meant

by the State legislatures. Peculiarly unfortunate was the fact that the time and abilities of members were none too ample for their legislative duties, so that the added labor on committees became an almost intolerable burden. At the time when John Adams was "the Colossus of Independence" on the floor of the house, he served on committees and was chairman of the all-important Board of War. Nor did the Confederation attempt to embody the will of a united nation, as did the Albany Plan. In spite of the fact that the small States had equal power with the largest, they were so jealous of any collective authority that ordinary decisions required a majority of over two-thirds—nine out of thirteen States. An amendment to the Articles required unanimous approval by the States. Furthermore, members who displeased the legislature that had appointed them could be recalled. Obeying the nature of the political animal, they played safe—passed the buck. Thus the Declaration of Independence hung fire until it was clearly approved not only by two-thirds but by all of the States. Even such impotence might have been endured if Congress had had power to raise revenue in the manner of the Albany Plan, by laying and levying uniform taxes upon commodities "pretty equally" consumed; but it could do no more than apportion quotas and make requisitions. Though the States were constitutionally bound in honor to obey these requisitions for money, they complied only in part and very tardily. Even in the great crisis of the Revolution, Robert Morris found that to exhort them to pay their just dues was like "preaching to the dead." Feeble at best in authority, Congress was soon bankrupt. Far from affording Washington the united and vigorous co-operation which the Albany Plan intended, the Articles subjected him to the same vexation and neglect he had suffered as Colonel of militia on the Virginia frontier —the result of an authority still divided among the States.

All this was masked for a time by the fact that Congress did act impressively. Its long hesitations were forgotten when it signed and published the great Declaration. The world knew only that though, in Franklin's much-quoted phrase, its members stood to "hang separately," they appeared to have hung together. It "adopted" the New England army, appointed its Commander-in-Chief, issued money to pay it. It sent ministers to foreign courts, made treaties of alliance and commerce. It even appointed a military dictator. For much of

this, it well knew, it had no Constitutional authority. It was able to accomplish it partly by virtue of the popular enthusiasm of those first years and partly because its powers were not yet defined. The Articles of Confederation, not drawn up until 1777, were not ratified by the last State till 1781. As they progressed toward ratification, Congress tended to hold itself within their limitations, becoming always more timid and circumspect. The open and obvious break-down of its authority was thus delayed until the very crisis of the war.

Yet those who knew it best had no illusions. John Adams, who thought of it all too highly, wrote in his *Defense:* "Congress is not a legislative assembly, nor a representative assembly, but only a diplomatic assembly." Jefferson took issue with this in terms that curiously illustrate the unreality of his thought. In his view, the States had "yielded to Congress" important parts of their sovereignty, both legislative and executive. "The Confederation is a part of the law of the land, and superior in authority to the ordinary laws, because it cannot be altered by the legislature of any one State. I doubt whether they are at all a diplomatic assembly." Surely two very different things are here confused, the paper Constitution and its actual working. "The Confederation" in its merely legal aspect had indeed superior authority; but how superior is the authority of an "assembly" of politicians who have always their ears to the ground for the rumblings of thirteen different sovereignties? In point of fact, the analogy with the European Conference of Ambassadors after the World War is complete. Adams replied that it was "a most difficult topic" and wisely evaded a discussion that was rather of words than of things. But his meaning is clear as it is cogent.

The Continental Congress was not a representative assembly, properly speaking, because the members one and all were mere deputies, subject to recall. It was not a legislative assembly because it dared not, and really could not, do anything decisive on its own independent authority. It was diplomatic in the sense that it discussed joint measures and decided upon such as were obviously agreeable to the States. As Adams explained, "the deputies are responsible to the States; their authority is clearly ascertained; and the States, in their separate capacities, are the checks." The fact that he had ever regarded this check, wielded by a small minority of even

the smallest States, as tolerable in a republic and as establishing an endurable balance, throws a strong light on the inadequacy of his federal theory; but it does not affect the truth of his description of the Continental Congress.[11] Instead of having distinct and vigorous organs subject to its own unified control, this unicameral congress, without an executive and without the power of taxation, was about as far advanced evolutionally as a jellyfish, floating helplessly in the tide of opinion from the State legislatures, any one of which could set up a cross-current that forced it into a stationary whirl of impotence.

V

Being thus without authority and any properly organized leadership, Congress seems to have feared its own Army somewhat more deeply than that of Great Britain. It was haunted at first by nightmares of a New England dictatorship over the middle and southern States.[12] Though these were allayed for a time by the appointment of a Virginian as Commander-in-Chief, they revived in proportion as Washington succeeded in giving a "Continental" character to the assembled State "lines." Similar fears played their part in the wretched Gates-Conway-Congress cabal against Washington, as also in the jealousy of Washington's friend Robert Morris when he became "dictator" of finance. We had yet to learn that, in order to keep the leaders of a republican army loyal and true, the first step is to give them powers adequate to the tasks assigned to them; that the surest way to provoke sedition is to vex and frustrate them.

Nothing in Washington's life is more heroic than the deference with which he treated this Congress. Cæsar did not scruple to flout the civil authority in order to feed, clothe and pay his army abundantly, and Napoleon followed his example. At the outset, Washington might have found dictatorial measures impossible for the lack of powder, of which he had at one time only some nine rounds a man.[13] But the time came when the country was equipped for war; and, as it happened, this was the time when he was suffering most cruelly because of the break-down of Congress, the derelictions of the States. If he had taken over the manufacture of munitions and the control of supplies, had appealed to the very human love of brilliant military adventure and given his "ragged Continentals" a

character and a dignity in keeping with their cause, he might have been speedily victorious. Time and again he pointed out to Congress and to the States that with a fair share of the abundant resources of the land he could end the war in half the time and with half the expense of blood and treasure.[14] The purest patriotism might have persuaded him to take the high hand. Many of the ablest of his champions, both in the army and in civil life, hoped that he would do so; and, as we shall see, they plotted to facilitate that course. In the face of jealousy and neglect alike, Washington held Congress always and most scrupulously in reverence. In doing so he paid tribute not to it but to the American people, of whose will it was, however feebly and perversely, the embodiment.

So far was he from wishing to supplant the civil authority that he was constantly scheming to increase it—to induce Congress to organize and assert its functions. It is not likely that he harbored any comprehensive scheme of constitutional reform; yet in the measures he urged there is evidence of concepts which were far ahead of the time and which were eventually embodied in the Constitution of 1787.

In a letter of July, 1775, to his fellow congressman from Virginia, Benjamin Harrison, which is not now extant, he appears to have suggested that, in order to inform itself more fully and to direct affairs with greater vigor and despatch, Congress should move to the neighborhood of the army. Harrison, with a sardonic fleer at the "slowness" and inefficiency of his colleagues, replied, "I think it will not answer your expectations if we should remove." Precisely what the "expectations" were we do not know; but apparently he hoped that an object lesson in military affairs would puncture the windbag of congressional debate. An orderly co-operation of the civil and military powers would certainly have inspired the army, enhanced the prestige of Congress and impressed the world deeply as an example of republican virtue and might. Narrower counsels prevailed. Congress did not choose to have its dignity overshadowed by what John Adams called "the pride, pomp and circumstance of glorious war." As an alternative, Harrison proposed that a properly authorized delegation from Philadelphia visit the camp. Even this Congress at first refused. "The gentlemen could not think of parting with the least particle of their power."[15] Eventually, a committee was

despatched, was re-enforced by representatives of the civil power of New England States, and accomplished notable results.

The only extant expression of Washington's ideas on this subject is in a letter of nine months later to a local Committee of Safety in New York. "It certainly adds great weight to the measures adopted when the civil authority cooperates with the military *to carry them into execution.* It would also redound much to the honor of the [New York] government, and of your committee in particular."[16] He was too tactful to italicize the suggestion of a lack of authority in the existing civil executive; but the passage shows that when, in 1787, he wrote of the unwisdom of intrusting both the legislative and the executive function to the same body of debaters he had long known whereof he spoke.[17] The army was to have a civilian chief command—but it was to be an effective one.

In May–June, 1776, Washington spent ten days in Philadelphia, in close conference with Congress; and, in harmony with his desire for a sharper concentration of authority, Congress replaced its shifting military committees with a permanent committee, which presently became the Board of War.[18] There were five members, and the chairmanship was one of the innumerable responsibilities placed upon John Adams. Upton, in his masterly monograph, describes the functions of the Board as "analogous to those of a Secretary of War."[19] If he refers to our modern War Department, the analogy is not close. Instead of working with and under a President who is Commander-in-Chief, and suffering no legislative let or hindrance except as embodied in general laws previously enacted, the Board was subject in every act of importance to the procrastinating control of Congress. As always, that august body clung to the last shred of its authority. Its amœbalike mass remained intact; the motions of its executive committees swaying backward and forward in the endless tides of debate. In point of fact, thanks to the "brace of Adamses," the Board intensified the lack of harmony between Congress and the army which time and again brought the Revolution to the verge of collapse. History has no bitterer irony than this, that the engine by which Washington hoped to advance the authority of Congress so nearly wrecked his own.

"What we need," he had said, "is a good army, not a large one." He urged every means to this end with vigorous common sense and

ever-tactful insistence. But to be good an army has to be permanently organized, and that was a thing which Congress would not permit. No maxim was more widely accepted than that a standing army, as Samuel Adams put it, "is always dangerous to the liberties of the people"; that the ideal for a republic was "a militia composed of free citizens."[20] Such republicanism had seemed to find ample warrant at Lexington and Bunker Hill. That John Adams greatly feared a standing army may be doubted, though he had much else to answer for; but nothing is clearer than that many did so, in and out of Congress. Numerous passages in Washington's correspondence attest that he reckoned always with such fears.[21]

The first step toward a good army, in his opinion, was to cease relying upon militia recruited for short terms—often three months, two months, even less. What he thought of minute men those of us can imagine who, on a well-remembered occasion, were not comforted by the assurance that a million men would spring to arms in a day. The doggedness of the American distrust of discipline is nowhere more manifest than in the heroic tradition of the embattled farmer, in the apotheosis of the minute man—a title chiefly significant of the length of his service. From the outset Washington urged that men be enlisted for the duration of the war. To that end they must be well paid, especially officers. The spirit of the people was then high, and the paper issued by Congress and the States was little impaired in value. Untold millions were wasted in assembling army after army, each of which dissolved before it could be licked into shape. The Continentals eventually became "good" but at best they were pitiably few; and they also were subject to strange dissolutions. When Washington's army was largest and seemed most nearly equal to its great task it was most liable to panic and rout. There was a sorry jest that we could never be sure it would fight—nor the British that it would run.

VI

Responsibility for this lies chiefly with the Board of War—with John Adams. In a fragmentary Autobiography which he wrote in 1805, he speaks of the charges "written or otherwise insinuated into the minds of the army, that I was an enemy to Washington, in favor of an annual election of a general, against enlisting troops during

[for the duration of] the war, &c. &c." and he denounces them as "calumnies, . . . all utterly false and groundless." [22] That, first and last, grave injustice was done him there can be no question. His efforts in behalf of a national military policy were already vigorous and in many ways intelligent. His later measures, as President, toward the founding of West Point were foreshadowed in 1776, when he urged a national academy "for the education of young gentlemen in every branch of the military art." As to the navy, his record is equally admirable.[23] When Washington asked for an army of as many as eighty-eight battalions he put the measure through Congress. As regards mere pluck and spirit, he was as stanch in Congress as Washington was in the field. But on the crucial points which he mentions his record is not clear.

As to enlistments for the duration of the war, he declared in 1805 that his difference with Washington had been not at all as to its desirability but only as to its feasibility. None but the offscourings of humanity would be available—"the meanest, idlest, most intemperate and worthless; . . . convicts and redemptioners." "We must have tradesmen's sons and farmers' sons, or we should be without defense; and such men certainly would not enlist during the war." "Was it credible that men who could get at home better living, more comfortable lodgings, more than double the wages, in safety, not exposed to the sicknesses of the camp, would bind themselves during the war? I knew it to be impossible." [24] Washington had the truer and higher trust in the people. He knew from experience that fighting regiments could be, as they always have been, hammered out of the slag of civil life. He believed, moreover, and maintained the belief, that if the appeal had been made at the outset on the ground of patriotism "tradesmen's sons and farmers' sons" would have responded generously—as they have never failed to do. All that was needed in the way of recompense was to feed and shelter them properly and to give them enough pay to sustain a decent pride in the service of their country. Though the immediate cost would have been greater, Congress would have avoided the huge expense and shocking waste of time and material inevitable in mustering in and mustering out army after army.

As to the treatment of officers also, the record is all against John Adams. If the service was to attract many young men of experi-

ence in the world, of character and ability and eager ambition, it must at least enable them to live wholesomely and decently—instead of which they received about half as much as English officers and had to pay far more for what they bought.[25] Many literally ruined themselves and left those dependent on them to starve or be fed by the bounty of neighbors. In 1775 Adams vigorously opposed the by no means excessive payment given to Generals. In 1776, when Washington and Greene pleaded in behalf of line officers who could not decently clothe themselves, he countered with a suggestion that there was "too much extravagance" among them, and did nothing.[26] His wisdom of 1805 was "wisdom after the event." A similar shift of ground is presented by Sam Adams, also a member of the Board of War. As early as 1780, he had quite forgotten his praise of the embattled farmer. "Would any man in his senses prefer temporary and expensive Drafts of Militia to a permanent and well-appointed Army?" Well-appointed! Alexander Graydon quotes with relish General Conway's question to an officer of the line: *"Did Congress see you before they appointed you?"* He records it of a Pennsylvanian fellow officer that he proudly announced himself to his British captors as *a Cappun* and notes that among the officers of the New England regiments with which he came in contact "anything above the condition of a clown was truly a rarity." The fact is that though the Revolution was fomented by gentlemen and scholars, and though some few of them served to the end with a heroism that can scarcely be conceived, it was very largely fought by the very class John Adams intended to avoid. And this was as true of the Virginia as of the Massachusetts line.[27]

As to John Adams's opposition to Washington personally, the "calumny" stands in no fairer light. In his Autobiography, he traced it to a factional fight in Congress that centred in a breach between Samuel Adams and John Hancock. This had arisen on grounds merely personal; but it so happened that the two factions were divided also as to Washington and the army. That John Adams was commonly identified with the opposition to Washington was due, he says, to the fact that he was, not unnaturally, "intimate" with his kinsman and with others of the faction, with whose liberal republican convictions he sympathized. The explanation is plausible. Though he was subsequently denounced roundly as an aristocrat

and a monocrat, the truth is that all his life his primary instincts were in tune with theirs. But it will not stand the acid test. When the War Board's preference for militia "composed of free citizens," and officered by men of their own choice, resulted in Washington's crushing defeat on Long Island and forlorn retreat through New Jersey, Adams blustered to General Greene: "I then expected to see two or three Bunker Hills. Two or three such actions would have answered my purpose. Perhaps one alone." When Washington's supporters justified the retreat by a classical analogy, he declared himself "sick of Fabian systems," and blurted: "My toast is for a short and violent war." Apparently Washington's courteous and ably reasoned plea that the only way to make the war short and glorious was to develop reliable officers of the line had made no impression on his mind. Certainly, in calling for "two or three Bunker Hills" he did not weigh duly a remark of Old Put, as Washington familiarly called the Yankee inn-keeper, with regard to the difference between fighting in the open and in trenches: "The Americans are never afraid of their heads. They only think of their legs; shelter *them,* and they will fight forever." [28]

As to annual elections of generals, the case is lamentably clear. Greene had written that the world is prone to be unjust to unsuccessful merit. At the time, Washington's defeat on Long Island and his own at Fort Washington were still sore memories. The Chairman of the Board of War retorted that, whatever the exceptions, "it is generally true that success is a mark of wisdom, and that misfortunes are owing to misconduct." From this premise he arrived at the conclusion he later denied. "I hope, for my own part, that Congress will elect annually all the general officers. If, in consequence of this, some great men should be obliged, at the year's end, to go home and serve their country in some other capacity, not less necessary but better adapted to their genius, I do not think the public would be ruined. Perhaps it would be no harm." He said much the same in a letter to Mrs. Adams.[29] That Washington saw the letter to Greene is highly probable. In 1782 he cited its pragmatical dictum and contrasted it with the much-loved saying in *Cato* about achieving success and deserving it. When Adams wrote his Autobiography (1805) the world knew well the "harm" that would have come if, in 1777, Congress had deposed Washington and

Greene. Doubtless these outbursts escaped the memory of the Sage of Braintree. One of the greatest boons of an imaginative temperament is the power it imparts of remembering what isn't so. The only possible excuse for Adams is the one urged by his biographer grandson. The character of Washington was of a type so new, and so singularly pure, that a student of history could hardly be expected to divine it.[30] The people came to know Washington for what he was; but their "idolatry" only made Adams shift his rage from the defeated general to a dreaded "dictator."

When realities confronted Adams as such, his grasp on them was as vigorous as his study and thought were profound—and his memory imaginative. On his journey to Staten Island with Franklin and Rutledge to confer with Lord Howe, he had his first object lesson as to the sort of thing of which Washington had so often written to Congress and his Board. "On the road and at all the public houses, we saw such numbers of officers and soldiers, straggling and loitering, as gave me at least a poor opinion of the discipline of our forces." "Such thoughtless dissipation at a time so critical . . . excited as much indignation as anxiety."[31] On his return, his Board of War recommended, and Congress resolved, that the Commander-in-Chief "give positive orders" to brigadier-generals and all other officers that their troops be "every day called together and trained in arms," and otherwise "inured to the most exemplary discipline." In the Autobiography, Adams comments: "Discipline, discipline, had become my constant topic of discourse, and even declamation, in and out of Congress." This conduct, he trusted, would win him "the esteem of a very few"; but, being at the time reported "by my faithful enemies" to "their friends in the army" it "contributed nothing to my popularity."[32]

Quite naturally! This was three months after he had demurred at increasing the pay of officers of the line, which Washington had urged precisely in the interest of discipline. At almost exactly the time he made his open-eyed observations (September, 1776), two brigades of Americans at Kipp's Bay, Manhattan, "ran away from about fifty" of the English; and, when Washington raged forward to rally them, officers and men alike "left his Excellency on the ground within eighty yards of the enemy, so vexed at the infamous conduct of the troops that he sought death rather than life." That he

was actually bent on his own destruction is borne out by a letter to Lund Washington.[33] To-day, those who will may laugh at the burly absurdity of John Adams; but to the cause of freedom, which he and his kinsman Samuel had at heart no less than Washington, so wide a breach of understanding between the Board of War and the army fell short of high tragedy only because, once more, Washington bore a charmed life through a hail of musketry.

In one act of some moment Washington did defy civil authority; but while the Muse of History records it, she has need of her sister of the smiling eyes. As the British approached Philadelphia in December, 1776, observers noted that the panic which the populace felt "seized the nerves of some members of Congress."[34] That august body appointed "a day of solemn fasting and humiliation" and recommended, especially to officers, the exercise of "repentance and reformation," pointing particularly to the articles of war which forbade "profane swearing and all immorality."[35] The public placed less faith in the cessation of army cussing. Frightened rumors spread that Congress was about to take to its heels. Augustly that body branded them as "false and malicious," and *"Resolved,* That General Washington be desired to contradict the said scandalous report in general orders." Receiving this evidence of the resolution of Congress, Washington replied: "I shall take the liberty to decline inserting it in this day's orders." He added: "If their departure should become necessary, it will be right; on the other hand, if there should not be a necessity for it, they will remain, and their continuance will show the report to be the production of calumny and falsehood." The very next day Congress struck the resolution from its journal and resolved again. The approach of the enemy prevented "that quiet and uninterrupted attention to the public business, which should ever prevail in the great continental council," and it fled to Baltimore.[36] Before going it conferred on Washington "full power to order and direct all things relative to the operations of war." Thus equipped as dictator, he crossed the Delaware to Trenton.

At Baltimore, Congress vested in him for six months the full and specific powers of dictator, even to living on the country and arresting all who refused to give up their property for paper money printed by Congress.[37] Washington used these powers so sparingly,

with such mildness and humanity, that Congress actually rebuked him for "a delicacy in exerting military authority on the citizens" which might "prove destructive to the Army."[38] As dictator he was, if you will, as much a figure of opera bouffe as the doubly resolute Congress; but as a lover and defender of the people, as a constitutional republican, he was not without a touch of the sublime.

General Schuyler was no less plagued by the confusion of the executive with the legislative function—of the supreme military command with politics and politicians; and in his case Congress had its way. Here if you will was an aristocrat, though in no mean sense of the word. Descended from the old school of patroons, he was accustomed to the authority that was still accorded in New York to wealth and family. And it fell to him to command an army largely composed of militia from the New England frontier, in comparison with whom the yeomen from the older counties were devotees of discipline, caste and prerogative. His patriotism was of the purest. In spite of constant illness, and constant desertions of his troops, he labored hard and successfully to prepare against Burgoyne's invasion. But Horatio Gates, that prince of hail-fellows and double-crossers, succeeded in poisoning minds in the Board of War. It sided with the New England objection to Schuyler's "aristocracy," nagged him and, taking advantage of a trivial breach of etiquette in addressing its own august self, put Gates over him in command. So long as there was need, Schuyler labored on for the cause, humbly, ably, patriotically. But for the time all credit for the battle of Saratoga, which mainly belonged to him, to Stark, to Morgan and to Arnold, went to Gates, who was sluggish if not cowardly in the fighting as he had been slothful in preparing for it.[39]

Washington meanwhile, who had generously weakened his army by sending Morgan's invaluable riflemen to fight with Gates, had been defeated at the Brandywine and at Germantown. John Adams's filial biographer speaks of an "attempt" by the Board of War "whilst organizing another army" on the northern frontier, "to raise up a second chief, as a resource, in case of failure," and says that it "must be viewed as a measure not without precautionary wisdom."[40] This may refer to a preference of Gates to Schuyler, but it has an ugly squint toward the defeated Washington. One can

only state matters of fact. After Saratoga, the wretched Conway Cabal tried to depose Washington as Schuyler had been deposed and to raise the futile Gates to supreme command. Actually gaining a majority in Congress,[41] they made Gates leader of the civil authority by making him Chairman of the Board of War when John Adams went abroad as Minister; and at the same time they authorized him to quit the Board at will and resume his command in the field—thus making him Washington's civil superior and a potential rival in arms. They made the intriguing Conway inspector-general, and made his fellow intriguer Mifflin quartermaster-general. All this was prelude to the Winter at Valley Forge—the physical sufferings of which were largely the result of Mifflin's negligence.

Washington continued to serve the army and his country with a selflessness unparalleled in our history, except by the similar conduct of Schuyler. It may or may not have comforted him that this substitution of professional executives for committees of legislators was in line with his ideas of congressional reform. Gates continued to intrigue and lie, but even more blunderingly than he fought. Washington shrewdly so managed that he exposed himself.[42] People of all sorts, including Congress, rose up against Gates, in love and reverence for Washington.

In his Autobiography John Adams says that in the "competition" between Gates and Schuyler he "always contended for Gates"; and, angrily commenting on the fact that Gates later turned against him, he describes himself as "the best friend and most efficacious supporter he ever had in America."[43] That Adams would have supported Gates against Washington, one regrets to say, is not impossible; but the fact is that he left Congress forever for his highly successful labors abroad as Minister only eight days after Congress received news of Burgoyne's surrender, which gave Gates's ambition the opportunity for its second vault.[44]

Is it to be wondered at that officers who were fighting with Washington were incensed against Congress, against the Board of War, against John Adams? Alexander Hamilton loved Schuyler for the great gentleman and humble patriot he so unmistakably was, became intimate in his household and married one of his daughters. As Washington's prestige increased and the busybody Gates shrank to his pigmy proportions, Hamilton's rage may have subsided, but

his low estimation of Adams's character and judgment remained. Time and again he opposed his political advancement; and, with the recklessness of consequences to himself which was part and parcel of his brilliant creative genius, he sought to curb and control him even as President of the United States. This had no small part in bringing on his duel with Burr, and it put an end scarcely less tragic to Adams's great and indispensable services as head of their party. Thus it threatened with utter shipwreck the "system" of government to perpetuate which was the dearest wish of Washington's heart. Yet never once did Washington show personal resentment of Adams or fail in a just appreciation of his great abilities and great patriotism. He was as friendly always as Adams would permit. For Gates he could only have contempt; yet even so his actual conduct toward him was of a purity and a magnanimity which, as Rupert Hughes has shown, scale the heights of the sublime. And it was all so unselfconscious as to be tinged with his abiding if inarticulate humor. The man's itch for eminence persisted, though in a shrunken sphere. In 1785 Washington wrote to General Knox of having journeyed to Annapolis "with my bosom friend G—tes," who had "contrived to edge himself into the commission."

VII

As a constitutional development, the Board of War progressed steadily, wrong-headed as its members so often were. Divided between his chairmanship and Congress, John Adams had labored eagerly from four in the morning until ten at night—which goes far to condone his occasional skitings of blather. When, as ultimately came to pass, the chairmanship was intrusted to a military man in sympathy with Washington, it functioned with vigor and intelligence. Such mistakes as occurred are properly attributable to Congress, without whose approval it could take no decisive measure. Largely as a result of its increased energy and concentration, there was a steady tendency toward the segregation and strengthening of all executive departments.

In September, 1780, doubtless with Washington's approval, Hamilton wrote from Camp to the Chairman of the Board of Finance, James Duane, a long letter proposing changes in the organization of Congress; and in December Washington wrote Duane to the

same effect. The letters illustrate strikingly the harmony of thought and purpose between the two and the difference in their powers of reasoned expression. Washington said:

> There are two things (as I have often declared) which in my opinion, are indispensibly necessary to the well being and good Government of our public affairs; they are, greater powers to Congress, and more responsibility and permanency in the executive bodies.
>
> If individual states conceive themselves at liberty to reject, or alter an act of Congress, which in a full representation of them, has been solemnly debated, and decided on, it will be madness in us to think of prosecuting the war. And if Congress supposes that Boards composed of their own body, and always fluctuating, are competent to the great business of war, (which requires not only close application but a constant and uniform train of thinking and acting) they will most assuredly deceive themselves. . . . I am much convinced that the public is charged with double what it receives, and what it receives is doubly charged, so expensive and precarious is the present system.

Hamilton's letter, too long to quote, is an amazing revelation of the soundness, acuteness and scope of his intellect. His suggestions were limited by the necessity of largely adhering to the outlines of the government as instituted by the Articles; but they foreshadowed many of the great innovations of the Constitution of 1787, even his doctrine of implied powers. Especially notable was his suggestion that "each department of the administration" be confided to "a single man," not necessarily a member of Congress—"a Secretary of Foreign Affairs, a President of War, a President of Marine, a Financier, a President of Trade." In effect, what they both proposed was an executive cabinet largely distinct from Congress.[45]

These letters had immediate effect. A special committee of which Duane was a member recommended the step and Congress established a Department of Foreign Affairs controlled by a Secretary. Presently three other departments were projected, notably one of Finance (February 20, 1781), with Robert Morris as "Financier."

In Morris's previous financial services to Congress, he had been greatly aided by the fact that he was head of the leading commercial firm of Philadelphia; but, as early as 1775,[46] he had been embarrassed by members who roundly accused him of using his office to feather his own nest. Such conduct was not unknown in that august body. Morris now made it a condition of acceptance that he have a free hand. The "republican" fear of financial power was scarcely less than of a standing army; but Congress, conscious of its own in-

capacity, ultimately consented. From May 4, 1781, Morris was in reality financial dictator. Joseph Reed said of him that he was "a Colossus" who bestrode "the other officers in Congress and Congress itself." "His influence also is great, not to say irresistible, in the appointment of other offices not connected with his own." "Mr. Morris has been for a long time the Dominus Factotum. . . . He has in fact exercised the power really of the three great departments, and Congress have only had to give their fiat to his mandates."[47] Amiable and patriotic as Reed was, his personal judgments were often poor, and in the present case he was biassed by the fact that he shared a widely held belief that Morris was dishonest; but there can be no doubt that, in the final crisis of the Revolution, the financier's civil powers approximated those of a modern English premier, even of our President. Yet as "dictator" he proved a worthy fellow to Washington. He pledged his private fortune to the limit and on his personal guarantee raised the few thousand dollars—twenty—without which Washington could not have kept his army together for the march upon Yorktown.[48] The superior efficiency of specially qualified executives, clearly sensed by Washington as early as 1776, was obvious even to Congress and the States long before the war was over.

To Washington's constant endeavors, seconded by Hamilton's brilliant treatise, we owe the prototype of our modern executive departments, the chiefs of which were already called a Cabal and a Cabinet. As Henry Jones Ford pointed out, the trend of development under the Articles of Confederation set strongly toward parliamentary government of the modern type with an executive cabinet responsible to a single chamber.[49]

VIII

The first impulse toward an equally important and far more novel institution is clearly traceable to Washington alone. At Cambridge in 1775 he found himself "plagued" with legal difficulties rising out of the capture of British ships. Massachusetts had established three local courts to try such cases; but, as he pointed out to Congress, "armed vessels fitted out at the Continental expense" did not "come under this law." He urged the need of a national court—"a court established by authority of Congress to take cognizance of prizes

made by the Continental vessels," and he enclosed the Massachusetts statute for their guidance. This was on November 11, before the birth of the Continental army and eight months before the Declaration of Independence. His apology for urging a Supreme Court amusingly suggests the prevailing confusion of powers: "I cannot spare time from military affairs to give proper attention to these matters." But it presently appears that he had a vigorous sense of the importance of a national judiciary permanently organized.

Congress characteristically procrastinated and played into the hands of the States. It recommended that they set up their own courts, like those of Massachusetts. Washington's suggestion of a national court it whittled down to a promise to lay such cases as might be appealed to it before a committee of its members—trusting to the States to try national causes in their first instance. Those who will may regard this as the starting point of our system of State courts and a national court of appeals. But in its intent and purpose it was an evasion and not an assertion of authority. Washington, in acknowledging the receipt of these "resolves," tactfully remarked that "to make them complete" they "only want a court established for trial"—a court and not a Congressional committee. "This, I hope, will be done, as I have taken the liberty to urge it often to Congress." [50]

Nine months later, when an appeal arrived, Congress was still bungling over a Supreme Court. The first result was a system of special committees of shifting membership. As appeals increased, this gave way to a slightly more dignified standing committee, the membership of which, however, was frequently changed. Some two-score cases were settled without encountering resistance to the authority of Congress. Then came the inevitable clash with the judiciary of a State, Pennsylvania. So feeble was the authority of Congress and its committee-court that the captors did not get their lawful prize for thirty years—until, in 1808, John Marshall and his associates confirmed the decision of 1778. One result of the committee-court was that, the judges having also legislative duties, the mountain had always to come to Mohammed. Not until 1780, five years after Washington's original suggestion, did Congress establish a court of special judges who could try cases in the various localities in which they had occurred, and this court lapsed when the war was

over. It served, however, a highly valuable purpose. As Professor J. F. Jameson has pointed out in a brilliant essay, it afforded a prototype for the present Supreme Court. Mr. W. G. Brown adds that it familiarized the legal profession with the procedure of a national court of appeals.[51] The Virginia Plan of 1787, which was framed by the delegation of which Washington was the leading member and on the basis of which the Constitution was raised, calls for a Supreme Court of the most extensive jurisdiction and speaks of it as a court of *dernier ressort*—Washington's favorite Gallicism since his youthful addiction to *faupas*.

IX

Of peculiar and striking significance is the development of Washington's idea as to the partition of powers between the States and the national government. In whatever he undertook he found that there was a legal twilight zone, a no-man's land of authority. He was very clearly aware of it and chary of invading it—not without reason, for it survived even the "miracle" of 1787 and eventually plunged the nation into the Civil War. But until Lincoln no one suffered from it as he did. At the outset, the States were disposed to give way, recognizing that Congress had need of extensive authority for the prosecution of the war.[52] If Congress had been resolute, it might have built up a very respectable national authority. But, feeling itself only a congress of ambassadors, it was always—the phrase is Washington's—"frittering back its powers to the States."[53] And, as human nature is what it is, the States took full advantage. There was constant friction as to whether they or Congress should appoint officers in the troops they raised, which spread discontent and demoralized discipline. So often as their several territories were invaded, they became terrified—competed against Congress in the purchase of supplies and offered such lavish bounties for recruits that many Continentals deserted to re-enlist. They even laid hands on cloth imported by Congress and sorely needed to clothe the Continental army, who were generally ragged and were sometimes confined to their tents, being literally "naked."[54] So great was the lack of coordination that Washington wrote: "If in all cases ours was *one* army, or *thirteen* armies allied for the common defense, there would be no difficulty in solving your question; but we are occasionally

both, and I should not be much out if I were to say that we are sometimes *neither* but composed of *both*"—and this in spite of the fact that, as regarded the Army, he had "used every means in [his] power to destroy all kinds of State distinctions." [55]

Such conflicts between the States and the nation roused Washington to a conception of union and strength as memorable as his early advocacy of a national court. In his sense of the abstract need of it he was not alone. Many by this time, exploring the twilight zone, had perceived that the particularist liberty so dear to our race is not enough, and they gave able expression to the idea of collective liberty. Said Robert Morris: "The inhabitants of a little hamlet may feel pride in a sense of separate independence. But if there is not one government which can draw forth and direct the combined efforts of united America, our independence is but a name, our freedom a shadow, our dignity a dream." [56] The specific proposals for a more perfect union which Washington and Hamilton had made to Duane in 1780 were now advocated by a brilliant group in Congress of whom Hamilton and Madison were the intellectual leaders. In February, 1783, Pelatiah Webster of Philadelphia, who was acquainted with them,[57] published the outline of a national constitution containing many fruitful ideas, notably a bicameral legislature and an executive cabinet, which, though in a different form, were embodied in the Constitution of 1787.[58] But no one had quite risen to a concept of the interplay of State and national authority which had long been developing in Washington's mind. Writing on the 15th of June, 1782, he compared the States to the wheels of a clock and Congress to "the great wheel," the mainspring which kept them in motion.[59] A year later (June 8, 1783), in his memorable letter recommending constitutional reform to the Governors and Legislatures of the States, he urged "an indissoluble union of the States under one federal head." A month after this, writing to the historian, Gordon, he made a striking addition to the idea. "To make this country great, happy, and respectable" it was only needful that "adequate powers" be "given to Congress" but only "for the *general* purposes of the federal union." The word he italicized he had used since he was a boy on the Indian frontier, but his conception was now crystal-clear. He added: "I am no advocate for [the national government's] having to do with the particular policy of any State,

further than it concerns the union at large." Thus while still in command of the army he had arrived at the conception of "an indissoluble union of indestructible States" which it took the Civil War to establish.[60]

X

In tracing the origin of Washington's ideas we must not of course forget that the Constitution was the product of many and most brilliant minds, of the century-old experience of an entire nation. To the student of his character, however, it is vastly interesting to observe the warmth and freshness of his imagination and his caution in following it, the sanity and profundity of his thought coupled with certain curious limitations in his power of articulate expression. First to grasp the importance of a Supreme Court as confirming national authority, he appears—so far as the record shows—to have left it for others to make it a court of appeals. Clearly as he perceived the respective spheres of State and nation, he probably did not formulate and certainly did not propose any elaborate constitutional scheme. Yet there is evidence and to spare that he understood clearly the weaknesses of the Articles of Confederation and that, unversed as he was in constitutional history and theory, he foresaw many or most of the lines of development that were leading to the Constitution of 1787. As we continue to trace the constitutional by-products of his active life, we may find reason to believe that to him more than to any other of the Fathers—more than to Madison and Hamilton, great as were their joint labors—do we owe the instrument of that federal authority which is the alter ego of collective liberty.

CHAPTER XI

THE ARMY AND THE CONSTITUTION

I

The story of Washington's handling of the threatened revolt of his officers at Newburgh has been told with an ample sense of his quietly dramatic masterhood—a modesty, a strength and a wisdom so beautiful that they touch the source of tears. Nowhere is the literary genius of John Fiske more fully disclosed. Like his predecessors however, Fiske passed lightly over a factor in the situation which seems essential to a full understanding of Washington's wise forbearance, and indeed of the historic significance of the crisis.

Many of his ablest associates—Greene, Hamilton, Pickering, Gouverneur Morris, Robert Morris—had part in the plot or showed a lively sympathy with it. Their conduct does not necessarily impugn their patriotism. The project was seditious, but it was something more than that—or less. The question was not merely whether the victorious army, betrayed by the blindness and ingratitude of political leaders, should demand justice at the point of the sword. It took more than a matter of pay to incline these men toward a revolt against the civil authorities. A careful reading of the records will show, I think, that in what they said and did one thought was persistent, predominant—that so long as the old Constitution endured it would stand between the new nation and the legitimate rewards of victory. Rather than that, they opened their minds to the idea of a constitutional reform imposed by the army. If this reading is right, Washington's greatest achievement at Newburgh consisted in this, that the new Constitution did not receive at its birth the taint of military dominance.

II

It is not to be denied that the sufferings of the army were the prime incitement. In any movement, however far-sighted, present

personal feeling is the driving force, at least with a great majority. At the outset of the Revolution, officers' pay had been only about half that in the British army; and, though it was gradually raised, the increase was much more than wiped out by the depreciation of currency. One regiment declared that in six years it had received not more than one-sixth of its "real" pay.[1] As always, Washington pleaded eloquently for his men. The French army were comfortably clothed, well fed, well paid, and the French officers proffered inter-allied hospitality suitable to the occasion. Our Continentals could respond only with "a bit of beef without vegetables"; if there was anything to drink it was "stinking whiskey." In order to remain in service for the duration of the war, many of them had spent "the flower of their days" and "their patrimonies," and had been obliged to abandon their families to the care of others. Many more had had to run into debt and were in danger of the loathsome debtors' prisons if discharged without pay.[2] When the army was reduced after Yorktown, the "deranged officers" had the bitter alternative of remaining at Newburgh for mere food and shelter or begging their way home from door to door. All had lost standing in their business or profession; and, in the course of eight years they had formed habits of life and of feeling which, though essential to the military profession, inevitably unfitted them for civil life.

What they chiefly expected was that, as in the British army, retiring officers should go on half-pay—be helped over the hard transition to civil life. When the fortunes of the Revolution were at low ebb in 1780, Congress had been prevailed upon to promise this to all who would continue in service. But, with victory assured, it relapsed into its jealous fears of a standing army. There were renewed objections against half-pay. Undoubted patriots such as Samuel Adams and Henry Laurens believed that it was "unconstitutional" and subversive of "republican" ideals. Though the young men had ruined themselves in the service, Laurens cried to God that they should have followed Washington's "noble, patriotic example" and served without pay. "Pensioner" was a word of degrading and unmanly connotation, commonly applied to members of Parliament corrupted by the King,[3] and Laurens hurled it at them, taunted them with wishing to fatten in idleness upon the public bounty, to live in ease on funds paid by "the widows and orphans of soldiers

who had bled and died by their sides."[4] Sectional jealousy swelled the chorus. One imaginative Virginian saw in half-pay officers the making of "a monied interest" fatal to the "landed interest" of the South.[5] The vote for half-pay had been a bare majority, and under the Articles of Confederation, ratified since it was passed, the assent of nine states was needful. Article XII provided that a debt previously contracted should be binding; but there were many who declared that a promise to pay was not a debt, and they demanded a new act—knowing well that it was impossible. Massachusetts passed a resolution to this effect.[6] Repudiation came in with "republicanism."

Meanwhile, prosperity was reviving. The frugal and patriotic Franklin found himself obliged to rebuke his daughter for coveting the frills and furbelows of a new fashion. The war-made rich were spending extravagantly, rioting in speculation—"abounding in wealth," as it seemed to the army, "rolling in state" and "swimming in luxury." Worst of all, while "republican" idealists in State legislatures refused to vote their just quotas and denounced the wretched army as fattened pensioners, Congress somehow found means of sustaining itself and its civil employees in comfort—and something more. On one occasion, these unco-republicans had indulged in high jinks the bill for which totalled over two thousand pounds, items in which were "116 large bowls of punch," "2 tubs of grog," "96 wine glasses broke," "5 decanters broke."[7] Washington foresaw clearly what all this portended. "It is vain, Sir," he wrote to the Secretary at War, "to suppose that military men will acquiesce contentedly with bare rations when those in the civil walk of life (unacquainted with half the hardships they endure) are regularly paid the emoluments of office." This was five months before the publication of the incendiary Newburgh address.

The rank and file had suffered in their way as severely. Whatever may be said of minute-men hastily assembled to defend their own States against invaders, these soldiers of 1782–3 were men of heroic mettle, worthy of all gratitude. Taught by Washington the need of a united America, they had enlisted as Continentals for long terms, for the duration of the war. Often, as Washington wrote with heavy heart, they had been barefoot and half-starved in the dead of Winter, their chapped feet as they marched shedding their impoverished

blood upon the snow. Their fellows in the South had been so nearly naked that they were confined by hundreds to their tents; or, if the enemy came, they turned out with only patches of moss on hip and shoulder to protect them from the galling of cartridge-box and musket. In making a monument to such as these, realists in sculpture would find themselves at one with lovers of classic nudity. The humiliation to our national pride might be even deeper than that caused by existing soldiers' monuments; but the gain would be clear if our people were kept in mind of the countless multitude of our best youths who have been killed by no enemy but by that curious compound of mistaken idealism and ignoble economy so dear to our legislators.

For years there had been mutinies, the only wonder of which was their infrequency and the restraint with which they were conducted. In 1781 mutineers of the Pennsylvania line were approached by British spies with offers of real pay—and red coats. Their leaders indignantly refused to "turn Arnolds." General Wayne offered a hundred guineas for the spies. A committee of sergeants immediately surrendered them; but, wretched as they were, they refused the money. They had handed the spies over, they said, "for the zeal and love of our country." "We therefore do not consider ourselves entitled to any other reward but the love of our country, and do jointly agree that we shall accept of no other." Yet even so the spirit of mutiny was wide-spread. If the army was to be kept in hand, there was need of the sternest measures. On one occasion, a solemn promise to make good the depreciation of Continental money was kept only with money which itself was worth one-seventh of its face value. A few men cried out angrily that they would be trifled with no longer, demanded "real, not ideal" pay, and refused to obey an order. They were sentenced to be shot. Their executioners were "the particular friends and messmates of the culprits"; and this, Wayne intimates, was by their own choice. At the word of command the firing squad obeyed "without a moment's hesitation . . . while the tears rolled down their cheeks." [8]

Among the great revolutions of history, ours alone disclosed that moderation and self-control among men of all ranks which is requisite to arrest the career of violence the moment violence is no longer necessary. With such soldiers to rely on, is it strange that undoubted

patriots felt little or no abhorrence at the idea of using the authority of the army to establish a government worthy of a free people?

III

That the basic idea was constitutional is evident in the first tangible evidence of sedition among the officers. Colonel Lewis Nicola was a man of mature years and "respectable" character; he was on terms of intimacy with Washington and enjoyed the confidence of his brother-officers. Undoubtedly with their collaboration, he wrote Washington a letter, in May, 1782, which begins as a disquisition upon self-government. At this time, it must be remembered, the world had had no example of a federal republic such as ours of today—with a bicameral legislature, an executive cabinet, and a chief executive who has a veto over legislation and is commander-in-chief of the army. The Albany Plan of 1754 made an approach to it but proved abortive. The unicameral Confederacy of the Revolution was blindly struggling toward it; but the ascendancy which Robert Morris had won over Congress was feeble at best and was already passing. Even John Adams, great exponent of the theory of the balance though he was, and stickler for a strong executive in the several States, had not risen to the conception of a bicameral "mixed government" on a national scale. Throughout the ages, federal republics had had unicameral legislatures and feeble executives—and their history had been one of precisely the chaos, futility and dissolution into which the new nation was sinking.

Such experience, Nicola wrote, "must have shown to all, and to Military men in particular, the weakness of republics. . . . Therefore I little doubt that, when the virtues of a mixed [national] government are pointed out and duly considered, such will be readily adopted." Note that, though the remedy is to be "pointed out" by "Military men" it is to be "adopted" by the people. Note also that this army proposal for a bicameral national legislature preceded by almost a year the much celebrated proposal of Pelatiah Webster to the same effect, and in addition called for a strong executive. Nicola then intimated that the "proper head" of such a movement was Washington —the man who had "merited and obtained the universal esteem and veneration" of the nation, and had led it, "through difficulties apparently insurmountable by human power, to victory and glory." Thus

far, what Nicola proposes is precisely what was eventually accomplished by the Constitution of 1787. Knowing Washington and revering him, he could scarcely have expected him to use the influence of the army one jot farther than was necessary to rouse the people to thought and exertion on their own behalf.

At the next step Nicola shows hesitation. In justice to him we must remember that, since the days of Cato and Brutus, there had been only one great self-governing nation, and that the English Constitution was accepted everywhere, notably in America, as an advance over the Roman—the model and inspiration of free institutions. Yet outwardly it was monarchical. Nicola recognizes that, in the minds of "some people" the idea of "monarchy" was so confused with that of "tyranny" that it would be difficult to draw the true distinction. "It may therefore be requisite to give the head of such a constitution as I propose some title apparently more moderate." Again we must fix our minds upon facts undistorted by words. What he here suggests is precisely what happened in 1787. The President of the United States bears a "more moderate" title, yet has wielded from the outset powers which were as great as those the British Constitution allowed to the Crown, and which are to-day greater in many respects than those of any European monarch or constitutional Minister. But Nicola leaned toward the course less moderate. He concluded: "If all other things were once adjusted, strong arguments might be produced for admitting the title of King." [9]

For at least three years Washington had been aware of the ferment among his officers. In 1780, in a letter of friendly counsel and warning to General John Armstrong (whose young namesake Major John Armstrong later wrote the seditious Newburgh addresses), he described it as "spreading discontent and possibly the seeds of sedition." Now, in his answer to Nicola, he expressed, as he had done from the beginning on every possible occasion, keenest sympathy for the wrongs of the army; he promised that, so far as his "powers and influence" extended, they should be "employed to the utmost" to secure "justice." The very able question-begging in Nicola's letter he brushed aside briefly but effectively by saying that the new instrument of government must come "in a constitutional way." All this, however, was incidental. His letter began and ended in a

blaze of scorn and anger. "No occasion in the course of the war has given me more painful sensations than your information of there being such ideas existing in the army as you have expressed and I must view with abhorrence and reprehend with severity. . . . I am at a loss to conceive what part of my conduct could have given encouragement to an address which to me seems big with the greatest mischiefs that could befall my country." There was also an implied threat. "For the present, the communication . . . will rest in my own bosom, unless some further agitation of the matter shall make a disclosure necessary. . . . Let me conjure you, then, if you have any regard for your country, concern for yourself or posterity, or respect for me, to banish these thoughts from your mind and never communicate, as from yourself or any one else, a sentiment of the like nature."

To the proffer of a crown there was not the least allusion. Exalted as his abnegation appears in the light of comparison with other conquerors, it cost him so little effort that within five years he had completely forgotten the incident. The thing that stirred him to the soul was a threatened departure from strict constitutional republicanism, a willingness to base American liberties on anything short of the unforced will of the people.

IV

At about this time Horatio Gates returned to his command. Suspended for abandoning his army during the rout at Camden in 1780, he had found defenders both in the army and in Congress. Washington himself was foremost in sympathy and magnanimity. Yet almost from the moment of his arrival a recrudescence of the spirit of the Conway Cabal against Washington mingles with the chafing at Newburgh. For in so sternly repelling Nicola's advances, Washington had alienated a considerable faction—who, still resolute in their purpose, now looked to his old rival to lead them. Precisely who they were and what their aims will never be known—was perhaps not clear to themselves. We know only that they exerted a strong influence on the general spirit of revolt in the army and eventually assumed its leadership.

Meanwhile there had arisen in Congress a group, including many of its ablest and most patriotic members, who felt keenly the need of

a national power of taxation, and who did not scruple to make use of the army to achieve it. Washington noted with an anxious eye the coming and going of emissaries from Philadelphia. Eventually he came to suspect that "Mr. Morris . . . or, rather . . . Mr. G. M." —the "Financier" and his assistant, Gouverneur Morris—had laid the "groundwork" upon which "redress by force" on the part of the army was to be the "superstructure." [10] All extant evidence confirms this. That he had something more than a suspicion of Hamilton is evident in the series of letters to that enterprising young man, from which the phrases above are quoted.

In the Winter following Nicola's letter the officers prepared a "memorial" of the army's wrongs—the question of present pay and half-pay for life—and sent a committee with it to Congress. The proceeding was irregular, but Washington begged indulgence for it and urged "soothing measures." The situation seemed, in fact, to be so "dangerous," to have risen to a height so "great and alarming," that in order to keep it in hand, he decided against a much longed-for visit to Mount Vernon. Madison and Hamilton were now members of Congress. To Madison we owe some very interesting notes of what happened, and to Hamilton some even more interesting conduct.

Before presenting their memorial, the committee from the army spent seven days in explaining it to the more sympathetic members of Congress—and, doubtless, in being coached by the group among them that championed the army.[11] On January 13, 1783, they appeared before a "grand committee" composed of a member from each State. Their conduct, as it appears in Madison's notes, was of exemplary tact, exemplary firmness. Being questioned as to what "particular steps" the army might take, they were reticent as to the officers, saying only that sergeants had been "often observed in sequestered consultations" with "the most intelligent privates" and that there was "sufficient reason to dread that at least a mutiny would ensue." Yet they threw out a hint unmistakable. In the past, commissioned officers had fearlessly risked their lives in quelling mutinies; but now they also were embittered and there was reason to fear that "at least those of inferior grades" would side with the mutineers. Their situation "was rendered extremely difficult & had been sorely felt" because, "when called upon to punish in soldiers a breach of

engagements to the public," the soldiers could answer that the public itself had first been guilty of "uniform & flagrant breaches" of faith with them. The army, they said, deprecated the present conflict between State and Federal authority and favored a more firmly united nation.

The senior officer on the committee was Major-General McDougall, whose character and abilities were highly respected, in particular by Washington. McDougall now "made a remark wch. may deserve the greater attention as he stepped from the tenor of his discourse to introduce it, and delivered it with peculiar emphasis." "The most intelligent and considerate part of the army," he said, "were deeply affected at the debility and defects in the federal Govt., and the unwillingness of the States to cement and invigorate it." They feared a "dissolution" of the government, in which case "the benefits expected from the Revolution wd. be greatly impaired." Civil strife might even ensue among the States, and this would be peculiarly repugnant to the army: it "would be sure to embroil" men who were now first of all Americans, friends and brother-officers. General McDougall had already remarked that "the army were verging to that state which we are told will make a wise man mad." Tactfully avoiding a threat, or the disclosure of any sympathy with sedition, he yet managed to suggest a probability that both officers and men would revolt unless the national government were somehow so strengthened as to be able to pay the army and otherwise fulfil its honorable obligations.[12]

V

The financial situation of Congress was at best difficult. All hope of pay and half-pay depended on a five per cent tax on imports. This would be a good beginning toward the establishment of foreign credit and the payment of the domestic debt, and it would be an entering wedge for other much-needed powers, such as a national control of commerce; but to achieve even the indispensable import tax required a constitutional amendment—a unanimous vote of the States. If the tax was to be effective, moreover, it was necessary that it should be collected not by the several States but by federal revenue officers. Both were unwelcome as "encroachments" upon State sovereignty.

In the matter of finance, much was to be forgiven. As to the paper money it had issued, Congress had harbored no illusions, knowing that to keep it at par the States must raise a substantial fund by taxation. That had proved grotesquely impossible. The people, even the legislatures of many States, lived in the familiar fools' paradise. They had never known what taxation is. The New Englanders especially were "a race of men as free as air from all subordination, . . . having no taxes but of almost individual voluntary constitution, not one in a hundred perhaps, in the country districts, paying half a crown per annum, though wholesome food and clothing were to be found in comfortable plenty in every family."[13] Before the war, according to Adam Smith, the yearly expenses of the civil list in the ten leading colonies aggregated $300,000. In 1777 Congress called for $5,000,000 to support the paper to be issued the coming year. And the great object of the war had been to escape a tax of three pence a pound on tea! As time passed, the quotas fixed by Congress had become ever larger and the proportion paid by the States ever smaller. Many reasons have been given for the steady decline in the personnel and authority of Congress; but fundamentally there was one reason. The States had the only effective power of taxation; and, aside from two or three diplomatic posts, they alone gave scope to men of ability and authority. All shifts failing, the national government became bankrupt, its vast issues of money not worth the paper they were printed on. The depreciation had of course laid a far heavier tax than a prompt payment of quotas would have done; but that was not the worst. It fell with especial severity upon the well-to-do and deranged business so that there was soon little to tax even if one and all had been willing. The States themselves were eventually bankrupt. Even when invaded, they could pay nothing except in the impossible form of staple commodities, which cost more than they were worth to collect, store and distribute.[14]

The outburst of seeming plenty toward the end of the war was an accident unconnected with financial policy. The hard money with which the French army paid for supplies revived industry. Privateers and profiteers were spending freely. On every side there was evidence of new riches in wild speculation. After Yorktown victory seemed assured, and a general prosperity. If, however, the full harvest was to be gathered in the treaty of peace, it was necessary, as

Washington tirelessly urged, to keep up at least a show of military power, which was impossible without pay and at least the assurance of half-pay. The five per cent impost, which had been vainly agitated since 1780, was now widely favored not only in but out of Congress. Only a small minority of States were still repelled by the idea of Federal revenue officers. Hamilton and Madison, working in harmony with Washington and with the two Morrises in the department of finance, made the cause their own.

VI

A fortnight after the receipt of the army memorial, Hamilton urged in Congress that "the energy of the federal Govt. was evidently short of the degree necessary for pervading & uniting the States" and that it was therefore "expedient to introduce the influence of officers deriving their emoluments from, & consequently interested in supporting the power of, Congress." Already, it thus appears, he had conceived the idea of basing the pervasive energy of the national government upon the moneyed class. Against this remark Madison made a marginal note, perhaps after his breach with Hamilton, calling it "imprudent and injurious to the cause." Certain of the Virginia advocates of State sovereignty, and of agriculture as against commerce, to whom Madison was to bow a decade later, "smiled at the disclosure" and remarked in private "that Mr. Hamilton had let out the secret." [15] The fact seems to be that Hamilton, to whom nothing was more alien than Madison's tactful self-restraint, deliberately intended a frontal attack. He was as nobly scornful of danger from the enemy as a soldier on the field of battle. The next day, January 29, 1783, he declared that he "disliked every plan that made but partial provision for the public debts; as an inconsistent and dishonorable departure from the declaration made by Congs. on that subject." On February 12 he formally moved the same, doubly underscoring JUSTICE and PUBLIC CREDIT and italicizing the fact that the general impost was to be taken quite out of the hands of the States and *"Collected by Congress."* When moderated and controlled by Washington as President, his intrepid financial honesty, and his no less intrepid reliance upon the moneyed interest, achieved notable results.

For the present, his relations with Washington were difficult.

Though he had been highly favored, and seems to have been genuinely loved, he had remained strangely insensible of his chief's great ability, his warm if unexpressive humanity and his magnanimity. The fact is that this youth of dubious parentage was swayed always by a chivalrous "delicacy" which is not less romantically appealing for being sometimes exaggerated. When the unfortunate André asked to be shot as a soldier, not hanged as a spy, Hamilton pleaded passionately for him; and when Washington, whose heart was no less wrung, made the tragic decision, he poured out his abhorrence to Elizabeth Schuyler, to whom he was engaged. "Everything that is amiable in virtue, in fortitude, in delicate sentiment, and accomplished manners, pleads for him [André]; but hard-hearted policy calls for a sacrifice. . . . Some people are only sensible to motives of policy, and sometimes, from a narrow disposition, mistake it." As Washington's aide in his early twenties, he had been chosen to write the most difficult and important letters, even sent to deal diplomatically with the jealous Gates and the muddled Putnam—all of which he did with mature ability and exemplary address. Yet, far from being bound to his chief by such recognition, he had seized upon a momentary eruption of temper and angrily insisted on resigning, though Washington was quick to acknowledge a wrong and make all honorable amends. In explaining this conduct to General Schuyler he had said that Washington "was neither remarkable for delicacy nor good temper."[16] As to his chief's "delicacy" he was subsequently enlightened when he himself was somewhat indelicately involved with Mrs. Reynolds: Washington presented him with a wine service in token of unaltered affection and regard. But it is a curious fact that, under the shock of the great chief's death, what Hamilton expressed, to both General Pinckney and Tobias Lear, was not so much personal sorrow as personal loss. "I have been much indebted to the kindness of the General, and he was an *Ægis very essential to me.*" Hamilton himself italicized this relegation of Washington to a subordinate rôle.[17] An Ægis is a storm-cloud enveloping the thunderbolt wielded by Zeus. One must not make metaphors walk on all fours; yet Hamilton did have a weakness for supernal conduct, especially for thunderbolts.

Now at Newburgh the army was forging a bolt as if for his hand.

Since 1779, there had been a persistent report, circulated on high authority, that, as an officer speaking among his comrades, Hamilton had said "that the army would, by-and-by, turn their arms upon the country and do themselves justice," and again "that it was high time for the people to rise, join General Washington and turn Congress out of Doors." Hamilton made an indignant denial to his friends, including Washington, and traced the report as far as the parson-historian Gordon, who, pleading abhorrence of duels, refused to name his informant. To Gordon's rather impertinent suggestion that Hamilton might have forgotten his own words, he retorted that it was "absurd." "I cannot recognize the remotest trace of an idea, at any period, that could possibly have led to them."[18] Sedition so crude must indeed have been far from his thoughts. Yet his love of high-handed measures was notorious. His bosom friend McHenry, co-aide of Washington and co-member of Congress and the Constitutional Convention, admonished him, in the very year of the Newburgh plot, that "bold designs, measures calculated for their rapid execution—a wisdom that would convince from its own weight, a project that would surprise the people into greater happiness, without giving them an opportunity to view it or reject it"—were likely to ruin a political career otherwise of the most brilliant promise.[19] Now, certainly, in 1783, Hamilton could scarcely have made the denial of 1779, being much occupied with a project which, though of the utmost subtlety and adroitness, had much the same end.

Madison's record of a conversation held on February 20 deserves a more careful study than it has received. It shows that Hamilton knew of the Newburgh address three weeks before it was published; that he knew of arrangements on foot to finance the revolt; that he did not consider the army's "plans for redress," as they would be presented to Washington, either "dishonorable or disloyal," and that he harbored hope that Washington would take them in hand. The "proper objects" to which they were to be directed were not, literally and at once to "turn Congress out of Doors"; but they may well have had to do with the constitutional reforms he was then so boldly laboring, which eventually had that effect. The name erased was undoubtedly *Gates*—Gates the lying intriguer for Washington's command; Gates the sluggard of Saratoga and the wretched

fugitive from Camden; Gates the vile traducer of Hamilton's revered friend and kinsman, General Schuyler; Gates the incompetent who could be trusted only to wreck any high project with which he was concerned! As the question is one of complicity in sedition, the passage must be quoted in full.[20] The italics I have ventured to insert.

> The conversation on the first subject ended in a general concurrence (Mr. Hamilton excepted) in the impossibility of adding to the impost on trade any taxes that wd. operate equally throughout the States, or be adopted by them. On the second subject [the intended revolt of the officers at Newburgh] Mr. Hamilton and Mr. Peters, who had the best knowledge of the temper, transactions & views of the army, informed the company that it was certain that *the army had secretly determined not to lay down their arms* until due provision and satisfactory prospect should be afforded on the subject of their pay; that there was reason to expect that *a public declaration to this effect would soon be made;* that plans *had been agitated if not formed for subsisting themselves* after such declaration; that as a proof of their earnestness on this subject the Commander was already become extremely unpopular among almost all ranks from his known dislike to every unlawful proceeding, that this unpopularity was daily increasing & industriously promoted by many leading characters; that his choice of indiscreet and unfit persons into his family was the pretext and with some the real motive; but the substantial one a desire to displace him from the respect & confidence of the army in order to substitute Genl. [erased and illegible] as the conductor of their efforts to obtain justice. Mr. Hamilton said that he knew Genl. Washington intimately and perfectly, that his extreme reserve, mixed sometimes with a degree of asperity of temper, both of which were said to have increased of late, had contributed to the decline of his popularity; but that his virtue, his patriotism & his firmness would, it might be depended upon, *never yield to any dishonorable or disloyal plans* into which he might be called, that he would sooner suffer himself to be cut to pieces; that he, Mr. Hamilton, knowing this to be his true character, *wished him to be the conductor of the army in their plans of redress;* in order that they might be moderated and directed to proper objects, & exclude *some other leader who might foment and misguide their counsels;* that with this view he had taken the liberty to write to the Genl. on this subject and to recommend such a policy to him.

VII

This letter to Washington is fortunately preserved. Hamilton's proposal will be found, I think, to be of the same tendency as Nicola's; but he is far more adroit in handling Washington's susceptibilities and so cautious in circumlocution as to appear, at first sight, enigmatic. J. C. Hamilton, the most absurdly partisan of filial biographers, prints the letter in full but characteristically glosses it over;

yet on a later page, he recognizes that it laid Hamilton open to the imputation of urging a course likely to "involve every interest, civil and military, in one common ruin."[21] Of subsequent biographers only Lodge has taken note of it, and he dismisses it as a mere "notion," failing to study it in its chronological relationship with the march of affairs at Philadelphia and Newburgh.[22]

The letter deserves especially to be studied in connection with Hamilton's ceaseless striving for a new constitution, at once intransigent and subtle, intrepid and devious. Three years before, in his letter to Duane, he had proposed a Constitutional convention, the first such proposal on record; and the purpose seems never to have been absent from his thought till it was achieved. Now, as if bowing before the immediacy and practicality of Washington's mind, he speaks of the constitutional outcome vaguely and cryptically as "measures which the exigencies of affairs demand," and which are to "bring order, perhaps even good, out of the confusion." Yet he trusts that the "intimations" he has "thrown out" will be clear to Washington. The most specific reference is to the "general funds" needed to "restore public credit." But, like Nicola, he urges Washington to *"take direction"* of the movement, and underscores the words. His knowledge of the sedition intended at Newburgh is revealed in the fact that he informs its commander-in-chief that the army *"will* subsist itself"—that is, live off the country. Highly characteristic are his scorn of the people as swayed by weakness and fear, and his belief that, if only Washington will lead the army, it will be able to gain the desired end "without losing" the "confidence" of the people—overawe them into accepting a stronger constitution. That his confidential intimacy with the heads of the Treasury Department was as great as with the plotters at Newburgh—with Gouverneur Morris who is known to have had part in the plot, or with Robert Morris whom Washington suspected of complicity, or with both—is shown by his possession of knowledge which he cannot reveal even to Washington. Very skilfully he speaks of the project, not as his own nor as that of a group in Congress, but as the result of a spontaneous movement of the army—though both well knew and subsequently declared that it was promoted with equal or greater zeal at Philadelphia. He even proposes that Washington practise a like dissimulation—that he *"take the direction of"* the

movement while appearing not to do so, through the "intervention" of others, naming Knox, as dummy leaders. It was with precisely such high-handed action, precisely such tortuous expedients, that he eventually wrecked the Federalist party. Those who agree with Scott Oliver that his course in 1799 was evidence of moral and intellectual decay in a mind preternaturally precocious, will do well to study this letter. The italics are Hamilton's own.

Philadelphia, February 7, 1783.

SIR:

Flattering myself that your knowledge of me will induce you to receive the observations I make as dictated by the public good, I take the liberty to suggest to you my ideas on some matters of delicacy and importance. I view the present juncture as a very interesting one. I need not observe how far the temper and situation of the army make it so. The state of our finances was perhaps never more critical. I am under injunctions which will not permit me to disclose some facts that would at once demonstrate this position; but I think it probable you will be possessed of them through another channel. It is, however, certain that there has scarcely been a period of the Revolution which called for more wisdom and decision in Congress. Unfortunately for us, we are a body not governed by reason or foresight, but by circumstances. It is probable we shall not take the proper measures; and if we do not, a few months may open an embarrassing scene. This will be the case whether we have peace or a continuance of the war.

If the war continues, it would seem that the army must, in June, subsist itself, *to defend the country*. If peace should take place, it *will* subsist itself, *to procure justice to itself*. It appears to be a prevailing opinion in the army that the disposition to recompense their services will cease with the necessity for them, and that, if they once lay down their arms, they part with the means of obtaining justice. It is to be lamented that appearances afford too much ground for their distrust.

It becomes a serious enquiry: What is the true line of policy? The claims of the army, urged with moderation, but with firmness, may operate on those weak minds which are influenced by their apprehensions more than by their judgments, so as to produce a concurrence in the measures which the exigencies of affairs demand. They may add weight to the applications of Congress to the several States [for greater constitutional powers]. So far a useful turn may be given to them. But the difficulty will be to keep a *complaining* and *suffering army* within the bounds of moderation.

This your Excellency's influence must effect. In order to do it, it will be advisable not to discountenance their endeavors to procure redress, but rather, by the intervention of confidential and prudent persons, *to take the direction of them*. This, however, must not appear. It is of moment to the public tranquility, that your Excellency should preserve the confidence of the army without losing that of the people. This will enable you, in case of extremity, to guide the current, and to bring order, perhaps even good, out of confusion. 'Tis a part that requires address; but 'tis one which your own situation, as well as the welfare of the community, points out.

I will not conceal from your Excellency a truth which it is necessary you should know. An idea is propagated in the army that delicacy, carried to an extreme, prevents your espousing its interests with sufficient warmth. The falsehood of this opinion no one can be better acquainted with than myself, but it is not less mischievous for being false. Its tendency is to impair that influence which you may exert with advantage, should any commotions unhappily ensue, to moderate the pretensions of the army, and make their conduct correspond with their duty.

The great *desideratum* at present is the establishment of general funds, which alone can do justice to the creditors of the United States (of whom the army forms the most meritorious class), restore public credit, and supply the future wants of government. This is the object of all men of sense. In this the influence of the army, properly directed, may co-operate.

The intimations I have thrown out will suffice to give your Excellency a proper conception of my sentiments. You will judge of their reasonableness or fallacy, but I persuade myself you will do justice to my motives. General Knox has the confidence of the army, and is a man of sense. I think he may be safely made use of. Situated as I am, your Excellency will feel the confidential nature of these observations.

If the purport of this is not sufficiently clear, it is made so by letters of about the same time written by Gouverneur Morris. He and Hamilton had been college mates and were of a similarity of mind and temperament that made them intimate and lifelong friends. Writing to men with whom he was on confidential terms, Morris was able to say frankly, even with a touch of exaggeration, things which Hamilton barely dared *intimate* to Washington. On January 1, 1783, within a day or two of the arrival in Philadelphia of the McDougall committee, he wrote to John Jay: "The army have swords in their hands. You know enough of the history of mankind to know much more than I have said, and possibly *much more than they themselves yet think of*. I will add, however, that I am glad to see things in their present train. Depend upon it, good will arise from the situation to which we are hastening. And this you may rely on, that my efforts will not be wanting. . . . Although I think it probable that much of convulsion will ensue, yet it must terminate in giving to government that power without which government is but a name."[23] The words I have italicized are evidence enough for Washington's belief that the plot was largely engineered in Philadelphia, and so frank an avowal of it could hardly have been made to Jay unless the writer's chief, the Financier, were privy to it.

On the very day Hamilton was intimating to Washington that he make General Knox his dummy leader of revolt, Morris wrote to

Knox: "I declare to God it is my sincere opinion that the best legislature on the continent will do things which the worst man among them in his private capacity would be ashamed of. . . . The only wise mode is for the army to connect themselves with the public creditors of every kind both foreign and domestic and unremittingly to urge the grant of general permanent funds. . . . The army may now influence the legislatures and, if you will permit me a metaphor from your own profession, after you have carried the post the public creditors will garrison it for you." [24]

To Nathanael Greene, who was in command of the Southern army, Gouverneur Morris had given the same counsel repeatedly—and quite as confidently as Hamilton penned those stirring words to Washington: "This, your Excellency's influence must effect." In a dark mood of the preceding December he had written: "I have no hope that our union can subsist except in the form of an absolute monarchy and this does not seem to consist with the taste and temper of the people. The necessary consequence, if I am right, is that a separation must take place and consequently [civil] wars, for near neighbors are rarely if ever good neighbors." Still, he was for doing his best to muddle through to a strengthening of the constitutional union; and to that end, while regretting that Greene had refused to serve as Minister of War, he admonishes him that he "must act in some measure as such"—while in command of the Southern army! Pointing out that the General has "very much the confidence of" the Southern States, he says: "I rely that you will press them hard on the score of revenue." On February 15, with the Newburgh crisis approaching, he wrote: "If the army, in common with all other public creditors, insist on the grant of general permanent funds for liquidating all the public debts, there can be little doubt that such revenues will be obtained." [25]

The phrase *public creditors* recurs constantly in this connection. The French Minister, Luzerne, explained it to Vergennes. In America there was no aristocracy. But in the North there was a large class of gentlemen of wealth, mostly merchants, who were accepted leaders in public affairs. If only the public debt could be funded on the basis of a permanent revenue, a numerous body of the most influential citizens would be interested in the permanence and strength of the union. *Public creditors* is thus a euphemism. It

is as if, after the World War, one had called the propertied class *holders of liberty bonds.* Hamilton was fond of the phrase and did not scruple to paraphrase it as "the class financially interested in good government." What he and Morris proposed, in short, was an alliance between the money power and the army. The project was far less wild than it may seem to-day, for at that time less than five per cent of the people had votes and were sufficiently interested politically to use them. And of these many still held to the eighteenth-century habit of deferring to the rich and the great.[26]

From Washington's generals in the north the most that could be expected was a sympathetic understanding and a willingness to follow his lead in the course Hamilton and Morris proposed. Whether Knox showed Morris's letter to Washington does not appear, but the probability is great. His answer to it has a highly Washingtonian flavor. He says that "the ardent desires" of the army have been "to be one continental body, looking up to one sovereign." They "are good patriots and would forward everything that would tend to produce union and a permanent constitution." In that endeavor, "they may assist, but they must be directed in the mode by proper authority." To Knox, proper authority for any assistance on the part of the army could only mean Washington; but as to the possibility of Washington's lending himself to a plot he seems to have no illusions. The army, he says, "are yet to be taught how their influence is to affect this matter"; and he calls on the men in Philadelphia for the initiative—a thoroughly constitutional initiative. "As the present Constitution is so defective, why do not you great men call the people together and tell them so?" In Washington's mind, as we shall see, this idea was dominant. Yet in some measure Knox regards the army as a factor in the situation. When it should be disbanded, the great and indispensable opportunity would be lost. "Let something be done before peace takes place or we shall be in a worse situation than we were at the commencement of the war."[27] It is the word of a cautious and phlegmatic man, who was, however, only waiting for the voice of command—a statement not in the least impaired by the fact that ultimately Knox followed Washington in the opposite direction.

Timothy Pickering, Quartermaster-General, had a somewhat stiffer neck. Writing his wife, with the seditious Newburgh address

before him, he expressed full realization of the peril of civil war, yet said: "If the business is conducted with prudence, it may have the best effect in promoting . . . such permanent revenues as will insure the payment of the army and other public creditors. In this view, the meeting has my hearty concurrence." After the meeting, if we may dodge ahead of the story, the assembled officers passed resolutions strongly condemning the fomentors of sedition. The lank and rangy Yankee angrily refused to vote for it. "And thus, my friend," he wrote to his departmental assistant, "that body of officers, in a moment, damned with infamy two publications which, during the four preceding days, most of them had read with admiration and talked of with rapture. *Mobile vulgus!*" [28]

VIII

Nathanael Greene, having a detached command, was in a position to act on his own judgment, and he proved an apt pupil of the young men in Philadelphia. He had been on the best of terms with the legislatures and Governors of South Carolina, advising them frequently—with their hearty concurrence so long as his army was needed for their defense against the British. But now the danger was past. Moreover, a political upheaval had turned out a government largely composed of men of family and property and had placed in power a government responsive to a popular will made vocal by the triumph of the Revolution, and by the suffering it had brought. Greene's South Carolinian biographer, Judge Johnson, who wrote in 1822 and had himself known much of the temper of those times, laments that the General's eye was less keen for political than for military situations. Obedient to Morris's behest, Greene wrote to the new Governor, Guerard, on March 8th: "I confess I am one of those who think our independence can only prove a blessing under Congressional influence"—which meant under a strong national government. To the party now in power, this was rank heresy. The people were jealous of the sovereignty of their State and were sincerely convinced that it was threatened by federal encroachment. All danger from England being past, they looked upon the Continental army as a burden which their wasted fortunes were little able to bear, and spoke of it contemptuously as "the minions of Congress." But Greene hewed to the line Morris had chalked. "The

present repose affords a prospect of permanent revenue. The eyes of the army are turned upon the States in full expectation of it." A threat followed. "The measures of the States will determine the conduct of the army. . . . *This country* [South Carolina] *is much better calculated for revenue than for war.* Your wealth and weakness are a double temptation to invite an invasion. . . . View but for a moment the vast property you have exposed, and the little permanent force for its defense."

At this threat of armed coercion, Guerard raged and sent the letter to the Legislature—which answered it with defiance. A previous legislature had voted the five per cent duty, and this one now repealed the act, as Virginia had lately done in a similar passion for State sovereignty. And it required unanimous approval! Charleston blazed with orators. They demanded first to be repaid the advances the State had made for the support of the Southern army: "Then let Congress, or its swordsmen, require this duty." Never was the cart put before the horse with more splendid conviction. The Continental army had now become "little more than the last enemy to get rid of," and Greene was denounced as a Cromwell.[29]

Really, there is something engaging in the light-heartedness with which the college-bred Hamilton and Morris, aged twenty-six and thirty-one, thought to give mandates to the greatest generals of their time and impose a constitution upon an entire nation. Both were patriots of the first water, eager and tireless in their devotion to the Revolution and to their ideal of liberty. Yet that ideal was essentially backward-looking, as often happens in the case of youthful liberals. Derived mainly from scholastic and legal study of the English Constitution, it was part and parcel of the already-vanishing eighteenth century. It made no proper allowance for the ability and independence of the American character, for the currents of popular will and understanding set free by the Revolution. Both young men conceived of the true freedom as possible only under the authority of a moneyed class made stable by a constitutional monarchy; and, though they acknowledged that monarchy was impossible in America, both carried that conception into the Federal Convention of 1787. Washington felt the need of established authority no less; but, so far as his mind was influenced by precedent, it seems to have dwelt upon the kingless republican liberties of ancient Rome. Cer-

tainly he felt the characteristic American abhorrence of even a constitutional monarchy, and in all ways had a far truer sense of contemporary mind and mood. It is scarcely too much to say that, while Hamilton and Morris were laggards in the eighteenth century, he felt the irresistible drift toward the nineteenth—or, possibly, the twentieth and the twenty-first. The matter is of some moment in relation to his subsequent attitude toward insurgent democracy.

IX

Washington did not answer Hamilton for almost a month, writing only four days before Greene's threat to Governor Guerard of armed coercion. And what he then wrote affords a curious and amazing study. The primitive craft which so often crops out in his financial manœuvres, and in military ruses such as his get-away from Trenton, here blends with profoundest wisdom. In striking contrast with his treatment of Nicola, he is so far from rebuking his young friend that he exculpates him by inference, speaking as if they were in general agreement. "Pursuing the suggestion in your letter, which I am happy to find coincides with my practice for several months past (which has turned the business of the army into the Channel it now is)," he is "under no *great* apprehension of its [the army's] exceeding the bounds of reason and moderation." The suggestion referred to, doubtless, is that he shall not "discountenance" the army's "endeavors to procure redress, but rather . . . *take direction of them.*" Hamilton and all Congress knew that Washington had not opposed legitimate measures but had given them every possible aid, notably in the case of the McDougall committee, and that he hoped, as Knox did, that the distress of the army might lead to the establishment of "general funds." The objectionable part of Hamilton's proposal was that Washington should "take direction" by means of the intervention of "confidential and prudent persons" and that this use of dummy generals "must not appear" to "the people." To all that, Washington makes no allusion. It was this tacit exculpation, this silence, which J. C. Hamilton construed into a blanket approval of Hamilton's letter. In thus ignoring the main point, Washington was perhaps influenced by regard for an able and potentially valuable collaborator in behalf of national union and strength. It is characteristic alike of his caution and his considera-

tion that he refrained from putting on paper any hint of sedition. Any one who had not read and studied Hamilton's very words could only think of Washington's reply as J. C. Hamilton professed to do. But in concluding he says significantly: "The contents of your letter is known only to myself."

The question of funds for disbanding the army Washington mentions as if himself broaching the subject. When he speaks of the present "danger" there is no hint of a "useful turn." With veiled reference to Hamilton's "*will* subsist itself" he remarks that "in one or two instances"—when so authorized by Congress—the army had been obliged to live off the country; and he forebodes that, if forced by the civil authorities to disband "for want of subsistence," it may do so again, and thus develop "an unhappy spirit of licentiousness." He gives it as his opinion, with no reference to Hamilton's, that this would "be productive of civil commotions and end in blood"; and he exclaims: "Unhappy situation this! God forbid we should be involved in it." The predicament "has been the subject of many contemplative hours," and it seems "more to be deprecated than prevented." In point of fact, as he remarked elsewhere, he regarded the army as "trembling on the brink of an abyss"; and that very day he wrote to Benjamin Harrison that unless the powers of Congress are "made competent to all *general purposes* anarchy and confusion must ensue." But, writing to his youthful instigator, he is "not without hope" that Hamilton's apprehensions are "greater than there is cause for"—provided only that Congress and the States show a disposition "to do justice." He may, however, be mistaken in this hope if there is anything in the reports as to the army which Hamilton has received and especially if it is true, as "*is said,* for I have no proof of it," that "the old leaven" is again at work "under a mask of the most perfect dissimulation and apparent cordiality." "The old leaven" can only mean Gates.

Then Washington proposes a course strictly constitutional, and leaves it to Hamilton's "prudence" whether he shall circulate the letter in Congress. We have here a second and decisive reason for his omission of any censure of Hamilton's letter, any reference to its main proposal. His evident purpose was to have Congress report "the just claims of the army" to the State legislatures: that, "it is to be hoped," will induce them to vest it with power to raise the money.

Hereupon we find the only allusion to Hamilton's seditious suggestion, heavily veiled yet unmistakable: "In any other point of view [than as appealing for their pay to the justice of the States] it would in my opinion be impolitic to introduce the army on the Tapis." He concludes with a striking development of the procedure proposed by Knox—that Congress adjourn, so that the members may go back to their State legislatures and plead that "the great defects of our constitution" be constitutionally remedied.[30]

In its full extent, the letter seems more oblivious as to the projected duplicity and sedition than any summary can suggest, which is doubtless the reason it has remained so long unscanned. In the correspondence after the crisis, Hamilton gladly donned the mantle of innocence which Washington had woven for him. Yet the fact that both knew the full truth, and that each knew the other knew it, leaps forth at times in phrases of startling import. Insisting that "necessity alone can work a reform," Hamilton reverts to the mood of his original proposal: "How *produce that necessity,* how apply it, and how keep it within salutary bounds? . . . Could force avail, I should almost wish to see it employed." Such a course, Washington well knew, could only fail, and thus, as he said, "make a sacrifice of the army and all its interests." Ardently as he desired constitutional reform and sound finances, the dignity and the just pride of the soldier blaze in his protest against making of the army "mere puppets to establish continental funds."[31] This whole correspondence is highly significant as to their subsequent relations as President and Secretary of the Treasury—of which, as they were in direct personal contact, we have, unfortunately, no such record. May not an Ægis be also a means of restraining an ill-advised thunderbolt?

X

On the tenth of March, six days after Washington's letter to Hamilton and long before the result of Greene's letter to Governor Guerard was known, the first anonymous address to the officers was circulated at Newburgh. Washington conceded that the author was "entitled to much credit for the goodness of his pen" and that his "art" had "rarely been equalled in the English Language." His officers lauded the incisive style as worthy of Junius. The contemporary historian, Gordon, who was in friendly touch with Gates, attributed

the authorship to Gates's aide, Major John Armstrong; and in 1823 Armstrong, then a General, claimed it.[32] But Washington expressed a strong belief that Morris had taken the lead, and his aide, David Cobb, wrote in 1825: "That Armstrong was the author . . . was *never* the opinion at headquarters."[33] Hamilton's long foreknowledge of it suggests a collaborator at Philadelphia, as does the fact that a second address, prepared on the spur of the moment at Newburgh, is sadly dull and futile. It may be noted that even Armstrong seems to have been swayed in part by the need of a stronger Constitution. In a letter to Gates of six weeks later[34] he speaks of building up "national character" and the "principle of union." But whoever wrote the address it appeals only to the outraged pride and bitter sufferings of the officers. The power of its trenchant phrases springs chiefly from the fact that they speak simple truth. "If this be your treatment while the swords you wear are necessary for the defense of America, what have you to expect from peace, when your voice shall sink and your strength dissipate by division; when those very swords, the instruments and companions of your glory, shall be taken from your sides, and no remaining mark of military distinction be left but your wants, infirmities and scars? Can you, then, consent to be the only sufferers by this revolution, and, retiring from the field, grow old in poverty, wretchedness and contempt? Can you consent to wade through the vile mire of dependency, and owe the miserable remnant of that life to charity, which has hitherto been spent in honor? . . . If you have sense enough to discover and spirit sufficient to oppose tyranny, under whatever garb it may assume, whether it be the plain coat of republicanism or the splendid robe of royalty . . . awake and redress yourselves! If the present moment be lost, every future effort is in vain; and your threats then will be as empty as your entreaties now."

As to Washington the address is skilfully ambiguous—as ambiguous as the situation into which it was launched. When it outlines a specific programme, it speaks of him with respect, though incidentally. "The army has its alternative. If peace, that nothing shall separate you from your arms but death; if war, that, courting the auspices and inviting the direction of your illustrious leader, you will retire to some unsettled country, smile in your turn, and 'mock when their fear cometh on!'" In plain words, if peace came they were to

enforce their claims at the point of the sword; if the war was renewed, they were to abandon their ungrateful countrymen to England. Word-reverence to the "illustrious leader" was paid in the suggestion that in retreating to the wilderness they shall "invite" his "direction"; but that their true purpose was to enforce their claims under Gates is manifest in another and far more salient passage: "Carry your appeal from the justice to the fears of government. . . . Suspect the man who would advise to more moderation and longer forbearance." [35]

This recrudescence of "the old leaven" gave the situation a gravity scarcely to be exaggerated. If the attempt succeeded, Gates, a Briton by birth and a blunderer always, would have leaped into power and perhaps into a quest of the crown which Nicola had proffered to Washington and which others than Hamilton and Morris regarded as the inevitable price of national union and strength. Only Washington, as it seems, had a clear sense of the far more probable failure. The task of conquering and holding thirteen rebellious States was precisely the task at which England, with all the resources of her Empire, had so ingloriously failed; and, as we have seen in South Carolina, the spirit of liberty had grown by what it fed on. No better scheme could be devised for depriving the army of their sorely needed pay, or for making the American Union which Washington dreamed, and for which he had labored so long and hard, forever impossible. And Washington alone had the faith to believe that, in spite of the lethargy of Congress and the selfish particularism of the State legislatures, there was still virtue in the American people to work out for themselves the only government which he cared for or would countenance, a government truly republican.

In general orders he called the anonymous summons "irregular" and "disorderly"; but he did not venture to oppose it. He merely postponed the meeting from Tuesday, March 11, to Saturday, March 15. The second anonymous address feebly represented this as "authorizing" it and "sanctifying" it. The fact was far otherwise. Washington was at once too tolerant, too much in sympathy with the army, and too thoroughly alarmed by its rash anger, to attempt to suppress opinion; but he bent all his strength to modify it. He used the extended interim between address and meeting to labor in person with leading officers, and to write an address of his own.

Even so, he prudently resolved to withdraw from the meeting before the general discussion. Few leaders have ever known so well how to assert command and when to withhold it.

Peculiarly significant is the concluding passage in his general orders as to the meeting. "The senior officer in rank present will be pleased to preside, and report the result of their deliberations to the Commander-in-chief." It sounds like a matter of course which need hardly have been mentioned. But the second in command was Gates and, taking the chair when Washington withdrew, he would be powerless to sway deliberations. Or, if he went down to the floor to oppose Washington, and failed to stampede the meeting, he would scarcely be "pleased" with the prospect of reporting the fact to the man before whom he had already so blunderingly disclosed himself as a futile and mendacious rival.

XI

It was a strange situation which Washington faced when he stood forth before his officers in the Newburgh New Building to read his address. The reverential affection he had received so long was changed to a cold and formal respect. These men who for eight years had worthily supported his best endeavors were now solidly ranged against him.[36] Seldom has the fate of the American republic trembled more perilously in the balance. Timothy Pickering was not alone in regarding these brother officers as an ignoble mob. Many who were in close touch with the situation declared that if a single strong voice had been raised against Washington in the vein of the anonymous address the whole army would have been swept off its feet.[37]

In some ways Washington was now an old man. Care had turned his light brown hair to gray, and the ceaseless writing of letters and despatches had so dimmed his pale-blue eyes that, as his manuscripts show to-day, his pen often slipped unobserved beyond the edge of the paper. But he was six feet three inches tall and, in his quiet way, he was every inch an athlete in spite of his fifty-one years. His uniform of buff and blue was immaculate, as always. Even at Valley Forge he had dressed as if on parade; and, as he doubtless knew, his starved and ragged army were by no means averse to seeing the leader of their cause arrayed in a splendor worthy of it. A popular

authority such as Washington's is a compound of many things, most of them impalpable. But observers who were most deeply impressed by his austere and silent dignity noted also his modesty and simplicity, his occasional touches of a warm kindliness which was somehow akin to humor, and which had a way of beaming forth when least expected.

Moved perhaps by the sense of opposition, he spoke a few words to explain his presence; but the address that followed was as resolute as the faces before him. The thing that moved him most deeply was the imputation that he should be suspected because he advised moderation. This at first he answered quite reasonably. The idea bespoke an intolerance of honest opinion which was itself to be suspected—revealed motives in which "candor and liberality of sentiment, regard to justice and love of country have no part." But he presently returned to the subject with a stroke of stern anger, "I spurn [the imputation], as every man who regards that liberty and reveres that justice for which we contend undoubtedly must." The idea that men of the army could withdraw to the wilderness, abandoning their homes and kindred to the enemy's triumphant return, he dismissed with ironic scorn. The real purpose of the anonymous address was to incite the officers to turn their arms against their country. That, he declared, was a purpose worthy of a British instigator bent upon "sowing the seeds of discord and separation between the civil and military powers." The man who proposed it should be not merely *suspected* but detested. "Let me conjure you in the name of our common country, as you value your own sacred honor, as you respect the rights of humanity, and as you regard the military and national character of America, to express your utmost horror and detestation of the man who wishes, under any specious pretences, to overturn the liberties of our country, and who wickedly attempts to open the flood-gates of civil discord and deluge our rising empire in blood." In closing he called upon the army for one more act of "patriotism and patient virtue"—an act which would enable posterity to say: "Had this day been wanting, the world had never seen the last stage of perfection to which human nature is capable of attaining."

Of Congress he had spoken as loyally as truth would permit; and, having ended his own address, he took from his pocket a letter from

a Virginia member, to read passages of a reassuring nature. But the writing was less legible than his own bold hand, and he was obliged to put on a pair of spectacles which a Philadelphia scientist had just made for him. He had never before worn them in public; and, as he opened and adjusted the bows, he remarked in a tone quite simple and intimate, "You have seen me grow gray in your service. Now, I am growing blind." [38]

Just how much the American republic owes to David Rittenhouse and his spectacles one can only conjecture. Many witnesses of the little incident reported that there was not an eye that did not itself grow dim. When Washington withdrew, the meeting adopted five resolutions. They included "unshaken confidence in the justice of Congress," and a rejection "with abhorrence" and "with disdain" of the "infamous propositions contained in the late anonymous address." Timothy Pickering's professed disgust at this mobile recantation may have been only the result of a spare Yankee's struggle in his own heart against queer feelings. Anyway, he didn't raise his voice to prevent a five-fold iteration of "Resolved unanimously."

Of another emotional moment we have no record—that which took place when Horatio Gates, in obedience to general orders, reported those five resolutions to the man who was still his Commander.

XII

The men who were nearest Washington knew well, and long remembered, what his triumph meant to him. In 1825 David Cobb, who had been in his official family at Newburgh, wrote: "I have ever considered that the United States are indebted for their republican form of government solely to the firm and determined republicanism of General Washington at that time." [39] If national union and power—the abatement of State sovereignty—had ever once been demanded by "a standing army," the Constitution under which we have lived long and prospered would have been utterly impossible.

Perhaps it is the very completeness of his victory that has blinded us to the seriousness of the crisis he surmounted. None knew Gates better than General Schuyler, or the danger that lay in the "opportunities" of which he dreamed that day. "Never, through all the war," Schuyler wrote, "did his Excellency achieve a greater victory

than on this occasion—a victory over jealousy, just discontent, and great opportunities. The whole assembly were in tears at the conclusion of his address. I rode with General Knox to his quarters in absolute silence, because of the solemn impression on our minds. I have no doubt that posterity will repeat the closing words of his Excellency's address,—'Had this day been wanting, the world had never seen the last stage of perfection to which human nature is capable of attaining.' "[40]

CHAPTER XII

THE ZERO-HOUR OF THE REPUBLIC

I

Having refused a crown at the hands of his officers, and having then dissuaded them from using the army to impose a new constitution, Washington regarded the triumphant treaty of peace as putting an end to his services. All that remained was for the nation itself to frame and establish the more vigorous government which experience had so amply shown to be indispensable. On disbanding the army, he wrote a circular letter to the thirteen States, addressed to the Governors, declaring his resolution to "pass the remainder of life in undisturbed repose" and consigning to them the task of gathering the full harvest of the Revolution. Characteristically he refrained from critical and systematic recommendations, emphasizing only the ends to be achieved. National honor and national prosperity alike required "a sacred regard to" the claims of all creditors. This could be achieved only by "an indissoluble union of the States under one federal head" and especially by a recognition of the resolutions of Congress as "absolutely binding" upon the States. Failure in this regard would mean failure in everything. "According to the system of policy the States shall adopt at this moment," the Revolution must prove "a blessing or a curse"—and not to "the present age alone" but to "unborn millions." "The eyes of the whole world" were turned upon the American people to discover whether republican institutions were to fail once more, or to endure. Surely a crisis thus grave would move them!

II

The thought that, like Cincinnatus of old, he could return to the labor and the repose of his fields may seem absurdly pseudo-classical. That it was the nearest thought to his heart is beyond question. In the eyes of the world and in his own eyes, he had been obscure as a

legislator as he was now famous as a soldier. His first committee work in the House of Burgesses had been with regard to hogs running loose in the Virginia streets; and, though the least slight upon his dignity as an officer had driven him to youthful rage and reiterated resignations, no murmur escaped him as hog-reeve. Subsequently he served on committees of importance; but it seems to have been chiefly as lending the dignity and authority of his personal character. He made few speeches or none and had a minor part in the concoction of world-shaking *whereases* and *now therefores.*

He was, moreover, profoundly and painfully conscious of what he called the defect of his education. Many self-made men have felt as he did, but none more engagingly, pathetically. His moods of modesty and melancholy had much in common with those of a certain stage prince, as his republicanism had with that of a noble Roman: his quotations from *Hamlet* and *Cato* are innumerable. Like Hamlet, he was profoundly given to admiration for men who had the quality he lacked. For the highly educated youngsters in his army "family" he nurtured an affectionate esteem which time and again kindled to beauty. To Barbé-Marbois he spoke of the chivalrous Lafayette with tears brimming in his eyes.[1] Though his petulant temper at times broke loose on his aides under stress of official labors, at the "family" dinner-table he listened genially if silently to their youthful effervescence of wit, admiringly and humbly to outbursts of intellectual ardor. During those terrible eight years his happiest moments, possibly excepting the marathons danced with Mrs. General Greene, seem to have been those spent with his brilliant "family" over nuts and madeira.

He felt also that, such as they were, his mental faculties were tired out. Repeatedly during the Revolution he complained that his mind was "always upon the stretch." How tired it was is evident to-day in the frequently vague and unspecific phrasing of his multitudinous letters, in his sentence structure so often involved and lumbering. After the stretch had lasted "constantly for eight years" he looked forward to retirement as bringing the precious boon of "a mind unbent." Who was he that, issuing from armed camp and battle, he should lead the American people in an enterprise so purely civil?

It appears, furthermore, that something within him had been starved. On arriving at Mount Vernon, the thought that his heart at

last was free filled him with a deeply religious rapture and touched his pen to phrases of enduring beauty. Through the younger Jonathan Trumbull he sent this message to Brother Jonathan: "Let him know that it is my wish the mutual friendship and esteem which have been planted and fostered in the tumult of public life may not wither and die in the serenity of retirement. Tell him we should rather amuse our evening hours of life in cultivating the tender plants and bringing them to perfection before they are transplanted to a happier clime." To Lafayette he is lyric, elegiac. "At length, my dear Marquis, I am become a private citizen on the banks of the Potomac; and under the shadow of my own vine and fig-tree, free from the bustle of camp and the busy scenes of public life, I am solacing myself with tranquil enjoyments. . . . I have not only retired from all public employment but I am retiring within myself and shall be able to view the solitary walk and tread the paths of private life with heartfelt satisfaction. Envious of none I am determined to be pleased with all; and this, my dear friend, being the order of my march, I will move gently down the stream of life until I sleep with my fathers."

But it was not so easy to unbend that mind of his. After two months at Mount Vernon, he gives General Knox a more realistic picture: "It was not until lately I could get the better of my usual custom of ruminating, as soon as I waked in the morning, on the business of the ensuing day; and of my surprise at finding, after revolving many things in my mind, that I was no longer a public man, nor had anything to do with public transactions. I feel as . . . a weary traveler must do who, after treading many a painful step with a heavy burden on his shoulders, . . . from his house top is looking back and tracing with an eager eye the meanders by which he escaped the quicksands and mires . . . into which none but the all-powerful Guide and Dispenser of human events could have prevented his falling." The reference to the Deity is unaccustomed; his Christianity was such that, in all his voluminous writings, there is no mention of Christ; but, highly instinctive and uncerebral as he was, he seems always to have felt guided by no mind of his own but by what he often referred to as "Providence." Subconsciously, the Hounds of Heaven still pursued him. Even in this letter he acknowledges that, deeply as he desires "freedom from public cares,"

such freedom "takes some time to realize." One wonders what the many things were which he revolved in his mind before he said *tush* to the spirit of the Father of his Country.

III

The fact was that the country seemed rapidly running into the very catastrophe against which he had warned the States through their Governors. To all appearances, the Revolution had failed, America had failed. Through eighteen centuries the peoples of the world had been subjected to kings; and then, in a glorious moment, it had seemed possible to liberate the human will, to throw off forever the incubus of monarchy and to manifest the wisdom in self-government of a free people. At the outset of the Revolution our enthusiasm for an American republic united and strong had been worthy of the cause—"the spirit of '76"; our material resources were always ample. Yet time and again we had trembled over the abyss, and had won through only by virtue of aid from a European monarch. Now that we were free, we seemed more than ever unworthy of our great opportunity—consumed by class hatreds and local jealousies, stupidly supine and visionless. Within four months after the Newburgh crisis Washington wrote to the historian Gordon that if affairs were to continue in the present train "we shall soon moulder into dust and become contemptible in the eyes of Europe, if we are not made the sport of their Politicks." He added: "The best that can come of it, in my humble opinion, is that we shall sink into obscurity, unless our Civil broils should keep us in remembrance." Enlightened Europeans who had applauded us, philosophers of the perfectability of man, were sunk in chagrin. Kings who had trembled in their high state as they viewed our assertion of the majesty of a free people, found in us only a theme for exultation and derision. In a speech from the throne King George said, with what seemed extreme unction to republicans: "I make my humble and earnest prayer to Almighty God that America may be free from those calamities which have formerly proved, in the mother country, how essential monarchy is to the enjoyment of liberty." Where Cromwell had failed, Washington was likewise doomed; and, so saying, the tyrant we were thought to have humbled to the dust stood forth before the world as the only true champion of liberty.

To us of to-day this idea that freedom is possible only in a hereditary monarchy is so strange as to be well-nigh incomprehensible; yet it persisted for years, not only among tories, but, to Washington's horror, among men who had fought the Revolution. In 1786 he was deeply troubled by that idea of King George's. He wrote to John Jay: "I am told that even respectable characters speak of a monarchical form of government without horror. From thinking proceeds speaking; thence to acting is often but a single step. But how irrevocable and tremendous! What a triumph for our enemies to verify their predictions! What a triumph for the advocates of despotism to find that we are incapable of governing ourselves, and that systems founded on the basis of equal liberty are merely ideal and fallacious!" When "Civil broils" were actually on foot in Massachusetts, he wrote to Lighthorse Harry Lee, now in the Continental Congress: "They [the rebel followers of Daniel Shays] exhibit a melancholy proof of what our transatlantic foe has predicted; and of another thing perhaps, which is still more to be regretted, and is yet more unaccountable, that mankind, when left to themselves, are unfit for their own government. I am mortified beyond expression when I view the clouds that have spread over the brightest morn that ever dawned on any country. . . . To be more exposed in the eyes of the world, and more contemptible than we already are, is hardly possible." Innumerable passages attest the depth of his disillusionment and chagrin, viewing the conduct of our republic.[2]

Monarchy—or civil broils between States and groups of States! The alternative spectres haunted men of vision and stalked abroad until they became familiar to all minds accustomed to read and think. Ten weeks before the Constitutional Convention, Madison wrote to Edmund Pendleton: "The late turbulent scenes in Massachusetts and infamous ones in Rhode Island have done inexpressible injury to the republican character in that part of the United States; and a propensity toward monarchy is said to have been produced by it in some leading minds. The bulk of the people will probably prefer the lesser evil of a partition of the union into three more practicable and energetic Governments. The latter I find, after long confinement to individual speculations and private circles, is beginning to show itself in the newspapers." Washington came to see the "combustibles" of civil strife not only in New England but "in every

State," combustibles so inflammable that "a spark might set fire" to them.

Allowance must doubtless be made for a patriotic purpose of rousing fellow countrymen to action. To foreigners Washington showed a calmer front. "It is not the part of a good citizen," he wrote to the Chevalier de la Luzerne, "to despair of the republic." That thought was deep and sincere as his forebodings; and, in point of fact, he strove persistently to rescue the republican ideal. Yet his persistence is perhaps as high an example as he ever gave of moral courage and patriotism.

In their records of this dark hour of the republic, historians have been guilty of an unwise charity to our forebears, or at least of an error in perspective. Something may be forgiven to the material and mental confusion of an era of quick transition; but the fact remains that the American character revealed at their worst traits we have still to guard against. It lacked even that poor honesty which is policy; it lacked the power of realistic and constructive thinking which alone can keep republican institutions in tune with individual and collective liberty. In the complacent retrospect of our historians, neither fault seems half as bad as they both were in combination. Our muddle-headedness seems largely a lack of recognized principle, our dishonor largely muddle-headedness. If one hand fouled the other, that was part of the process of washing; in the fulness of time, both became measurably clean. Washington saw things as they were: he weighed well his words as always when, after a viable Constitution was framed and ratified, he spoke of the achievement as "a miracle."

IV

Men who had been towers of strength in the Revolution were now helping to plunge the Republic, the new nation, into breaches of the treaty of peace, into repudiation of its just debts. Benjamin Franklin was never more dubiously shrewd, never more misguided in statesmanship, than when, in negotiating the treaty, he argued that private debts contracted to British merchants before the war were not properly collectible. If a man sold a piece of goods, he asked, and then broke into the purchaser's shop and made away with it, had he a right to be paid? John Adams bluntly rebuked this

sophistry. It was not the British merchants who had sacked and plundered. The debts were man to man, and the American people could only acknowledge them. Yet State after State accepted Franklin's sophistry and violated the terms of the treaty, ignoring the fact that, in order to secure the manifold advantages it gave them as members of the victorious nation, they must accept also its obligations—submit to national control. The tribe of Franklin's followers, then reputed statesmen of the first order, have gone down in history in a literal sense, with both hands copiously smeared—George Mason, Richard Henry Lee, George Clinton, Elbridge Gerry, even Patrick Henry. Patriots all and the soul of honor in their private lives, they yet compromised our national honor in the name of a poor particularism and all but strangled the Constitution in the hour of its birth. That they failed was perhaps not a miracle but it was something almost as strange, an achievement in leadership of which the protagonist seems to have been, and probably was, sublimely unconscious. Very curious, and all but impossible of clear analysis, is the process by which Washington became first in peace as in war.

In spite of his plea to the Governors, the States continued in their refusal to regard the authority of Congress as "absolutely binding." The amendment enabling the national government to lay and collect a five per cent tax on imports, first agitated in 1780, was no nearer to their unanimous approval. It had been for the lack of this that we had repudiated our currency, starved our heroic defenders, appeared in the courts of Europe as beggars; and presently our allies, perceiving that we were not even able to pay interest on previous loans, refused further advances. The fruit of particularism was dishonor, and of dishonor bankruptcy. At one time Rhode Island, spoiled child of the Confederation, alone prevented the requisite unanimity. It had specious reasons, but the controlling fact was that, thanks to its flourishing ports, it was able to levy tribute on its neighbors in Connecticut which would be impossible under the general impost. Congress sent it a threatening message. This was brilliantly written by Alexander Hamilton. His biographer champions have justly praised it as the earliest public document adequately discussing the problem of a national revenue, but they have curiously ignored the fact that it contained a fatal overstatement of his doctrine of implied powers.[3] It argued that, if the little State refused to do what it

had promised in joining the Confederation, Congress could compel it. As always, Hamilton was for the frontal attack; and, as so often, he miserably failed. Rhode Island scorned the threat; and then Virginia, viewing this menace to State sovereignty together with Greene's in South Carolina, angrily withdrew its consent to the impost. To Richard Henry Lee it appeared that Congress *lusted* for power.[4] New York like Rhode Island levied tribute on Connecticut and also on New Jersey; but it had reluctantly yielded to the national need. Finding, however, that Congress thought it essential to appoint its own collectors, as indeed it was if the tax was to be effective, it also repealed its consent. George Clinton was here the champion against the strange lust of Congress to feed the army and retrieve our national bankruptcy. Washington, deferring always to the civil authorities, had moods in which it seemed that there was a conspiracy of the States to mire the nation in dishonor.[5]

As regards our rapidly developing foreign affairs, he called the conduct of the States "imbecile." In violation of the treaty of peace, England still retained military and trading posts throughout our lands beyond the mountains. We now know, what he could only surmise, that it was her conscious purpose to engross the fur trade that by right was ours, even to erect a wilderness barrier north of the Ohio against our westward course of empire.[6] Yet we were so nearly bankrupt, so destitute of a competent executive authority, that as of old, when the French similarly blocked our frontier, a united resistance was impossible. In the Southwest lay a danger as great. Thousands of our people had settled in what is now Tennessee and Kentucky, and the tide of emigration was steadily swelling. For the moment Spain blocked the mouth of the Mississippi; but during the Revolution there had been a thriving commerce with New Orleans, and she had only to realize her true policy in order to bind the men of the western waters to her by ties of self-interest. Even on the seaboard the conflict of local interests had produced, as early as 1783, a strong tendency toward a disruption of the union into separate confederacies—New England, the Middle States, the South.[7] The pioneers beyond the Alleghany barrier, certainly, if only they were once weaned from their commercial dependence upon the Atlantic seaboard, would be lost to the union forever. Unlike Spain, England saw all this quite clearly and placed a great

faith in the imbecility of our republic. Thanks to the Saint Lawrence and the Great Lakes, the stream of commerce from our people beyond the mountain barrier might be made to flow to her ports. And if, eventually, our confederacy was disrupted, she had good hope of collecting the fragments under her ancient sway, as was very soon shown by an anglophile secessionist movement in New England.

V

Why did we submit to these pretensions? It was not merely because of our weakness—because, for the lack of the power of taxation and of foreign credit, the Continental army had been disbanded and our promising young navy abandoned at its birth. We had given, and we continued to give, a logically valid pretext for British arrogance. The ruinous craze for paper money was still rampant. In the matter of debts due to English merchants, many States refused to throw down obstacles to their lawful collection which had been raised during the Revolution. If our Minister in London spoke of the treaty provision as to the British posts in our West, the English government smilingly assured him that it would evacuate our territory so soon as our citizens had arranged for the payment of debts long overdue. Small wonder that John Adams fumed and raged there against Franklin!

Washington's own State proved foremost in delinquency. For the present, it must be admitted, there was a difficulty. Through generations, the amiable Southern hospitality, and the picturesque Southern talent for gaiety and sport, had gone hand in hand with an impoverishment of the soil caused by erosion together with incessant crops of tobacco. And it had been the policy of English merchants to manacle the planters by an endless chain of debt. Jefferson declared that the total sum was "certainly £2,000,000 sterling." In 1791 the exact sum, including interest, was £2,305,408.[8] The annual expense of the national government under Washington and Hamilton was only eight million dollars. The blight of the war lay on one and all. Madison, the most prudent of men and heir to broad acres, was obliged to the patriotic bounty of a Jew broker, Haym Solomon, for the small sums needful to pay board and lodging while in Philadelphia as member of Congress. Washington, one of

the two richest men in America in land values, and the richest in Virginia, was unable to pay arrears of taxes for which he was pestered by the sheriff. Yet such facts are familiar in debt settlements. All that was needful was an honest acknowledgment of the sums due and a workable arrangement for their gradual payment. Virginia legislators continued to be swayed by such logic as Franklin had used. They questioned the obligation of their sovereign State to bow before unpleasant provisions in a treaty the major results of which they eagerly embraced. To his private correspondents Washington pleaded for that elementary wisdom which consists in never permitting an enemy to place one in the wrong. In vain! How could he commend international polity to minds that would not even be national? Robert Morris had found that his homilies to the States as to requisitions were like sermons to the dead. Washington was confronted by the task of rousing a nation that had yet to be born.

The great obstacle lay not in the people but in what, with an unaccustomed bitterness, he called the "selfish" and "sinister" conduct of "demagogues," of "interested men in the states." A more vigorous Constitution was rendered impossible by the "strong phalanx" of those "whose personal consequence" would "in a manner be annihilated" by it.[9] The modern mind does not easily conceive how this could be. If any one were to propose abolishing the national government, politicians would be the first to rise up in defense of the great ultimate field for their ambition. In the eighteenth century only statesmen of wide vision could conceive such a frame of mind. A man's State was, what he often called it, his "country," his "native land." Its Governor was heir to the dignity and the splendor of the royal governors; proud of his post as commander-in-chief of the militia, he arrayed himself in gorgeous uniform and bestowed on his aides the abounding title of Colonel. Its legislature was supreme and the legislators in line to become Governors. Politicians of all ranks revolted at the idea of inferiority to a Congress and an Executive dominated by other States. What to Washington was an indispensable measure, a luminous ideal, seemed to the State politicians a mere lust of power, threatening usurpation.

In the modern world the nearest analogy is the League of Nations. It was as if champions of the League were to demand that

it be constituted a superstate to control not merely the peace of the world but the political and financial affairs of all the nations. The chief difference, and it is a great one, lay in the fact that the thirteen States were overwhelmingly of the same race and speech, with the same types and traditions of government.

Why did not Washington use his personal prestige and authority to arouse the masses, as champions of the League of Nations have latterly tried to do? The victory over England had made him foremost citizen of the world, and his victory over his own army had added an aura of republican purity and devotion. Surely the iron was hot for a stroke against those selfish and sinister demagogues! He did not think so. The letter he had written to the Governors on disbanding the army had been received with outward respect but had quite failed of effect. It had, indeed, caused bitterness among "interested men," especially in his own State. "The murmur is free and general," the vacillating Randolph wrote to Madison, "against what is called the unsolicited obtrusion of his advice." [10] Washington became aware of this and felt it keenly. He knew well, moreover—what advocates of the League of Nations have not known—that to appeal to the nation over the heads of politicians is to redouble their fear and resentment; and that, having direct and permanent access to the popular ear, they can sound the alarm to narrow prejudice with deadly effect. It was such thoughts as these, doubtless, that haunted his waking hour and made it hard to persuade himself that he could glide quite so gently down the stream of life to a peaceful sleep with his fathers.

He had, however, one great hope, the essential unity of his fellow countrymen and their ultimate good sense. Those who have listened to the charge that he was an aristocrat, that he "distrusted the American people," will do well to study his mind and mood in this zero-hour of the republic. During the eight years of the Revolution, he had consciously striven to weld the shifting, factious State "lines" into a national army, and he had very largely succeeded. Even as his men were bent upon sedition and mutiny at Newburgh their favorite toast, as Knox told Gouverneur Morris, was for a stronger constitutional union—the "hoop" which, in their homely metaphor, would make of thirteen staves one solid and inclusive "barrel." That his hope for a similar regeneration in the people was

unfailing is evident in all he said and did. Writing to George Fairfax in England, he lamented the present disorder, "as I would have the national character of America pure and immaculate"; yet he trusted it to "work its own cure, as there is virtue at the bottom." To the younger Jonathan Trumbull he wrote: "Notwithstanding the jealous and contracted temper which seems to prevail in some of the States, yet I cannot but hope and believe that the good sense of the people will ultimately get the better of their [the politicians'] prejudices." When at last the new Constitution was ratified he admitted that it had "imperfections," but trusted in "the people" to correct them. "They will have the advantage of experience on their side," and thus be able "to decide with as much propriety as ourselves." Under the Constitution ultimate power "will always be in the people." "I do not think we are more inspired, have more wisdom, or possess more virtue, than those who will come after us."[11] This anticipates by thirty-two years an often quoted saying of Jefferson's—which, though characteristically exaggerative in the statement, is identical in sense.

As yet, Washington realized, the people were in no position to judge of the constitutional problem. Under the old Articles, they had made themselves free, had won for their children a wide empire. Why should they think that a new instrument would be better? Only experience could enlighten them, some pressing need. Unflagging and unstinting as Washington was in patriotic and philanthropic devotion, he had the true statesman's perception that peoples are swayed, not primarily by ideas or ideals, but by their interests. If he were wiser than they, it was because, as a lad on the Virginia frontier and as a man in the Revolution, he had been brought face to face with the fact that the best efforts were frustrated, and the expense of blood and treasure redoubled, by disunion. Before all men could see what he saw, they also must suffer in person. Repeatedly in his letters he voices this idea. To George Fairfax he wrote: "The people must *feel* before they will *see,* consequently are to be brought slowly into measures of public utility. Past experience, or the admonitions of a few, have but little weight—where ignorance, selfishness and design possess the major part:—but evils of this nature work their own cure." To Lafayette: "Democratical States must always *feel* before they can *see:*—It is this that makes

their Governments slow—but the people will be right at last." To John Jay: "In republican governments . . . a train of evils must be sorely felt before they can be removed. . . . Nothing but time can show the inefficiency and dangerous tendency." [12]

He was, however, far more active than he seemed to the world at large, even to the politicians. As his correspondence shows, he endeavored ceaselessly to win over leading men whom he could trust, especially in Virginia, to his ideas of national union and strength. These included Benjamin Harrison and Edmund Randolph, both Governors, and especially young James Madison, upon whom he bestowed a title accorded to no other American, "my particular friend." Jefferson was then our Minister in Paris, but Washington included him in his endeavors and seems to have influenced Madison to do the same. Eventually one and all turned against him, or at least against his ideas, reverting to the agricultural-particularist doctrines of the South; but for the present he made Virginia the most effectively federal of the States. As always, the means he employed was deeds rather than words. "The earnestness with which he espouses the undertaking," wrote Madison to Jefferson, "is hardly to be described and shows that a mind like his, capable of great views, cannot bear a vacancy." [13] The "undertaking" was his waterway, wide and smooth, over the Alleghany Mountains.

It is a commonplace of history that the path toward the new Constitution was blazed by the Potomac Company when it solved the problem of joint action among a group of States, and was successfully laid open by men who came to see that the commercial needs of each particular State could be supplied only by a general Government. Because of Washington's prominence in the movement, engineers claim him as one of themselves, as do also captains of industry addressing chambers of commerce. Such claims exalt good people and in nowise detract from Washington. But the simple truth is that he was a surveyor and not an engineer, a planter and not a merchant—and also something more than either. He was the creative force of the great modern republic. What Madison called his mind was rather the imagination that is genius—kindred spirit to "the soul of the wide world dreaming on things to come."

VI

After eight months at Mount Vernon his mind, or whatever it may have been, was so far from unbent, his heart so little inclined to move gently down the stream of life, that he set forth upon his memorable journey up the Potomac and among the bickering headwaters of the Youghiogheny and Monongahela. In his diary, he assures himself that the care of his lands there, and especially the sorry conduct of an agent, one "Mr. Gilbert Simpson," made the journey "indispensably necessary." It is a striking example of his insistence upon the pragmatical. The dominance of his statesman's imagination is clearly revealed in the record that follows. Mr. Gilbert Simpson and his enormities fade from view amid minute details as to the great waterway. On his return he wrote to Benjamin Harrison, then Governor, a long and able plea for a Company to promote navigation on the Potomac, copying eloquent pages of the diary verbatim and proclaiming the peculiar good fortune of "Rumsey's discovery for working boats against stream by mechanical powers." To innumerable correspondents in public life he wrote in the same vein. Thus he assures Edmund Randolph that his "great object" is "to connect the Western Territory with the Atlantic States"; all other objects, he declares, "are secondary." Incidentally, however, he points out that the waterway "will greatly increase our commerce"—that of Virginia. Already, we may surmise, he saw clearly that without commerce the whole South must slip backward. But in aristocratic and agricultural Virginia commerce was taboo. Not until his letter to Sally Fairfax, the year before his death, does it appear that he dreamed of a city at the head of tidewater navigation on the Potomac which should be at once our national capital and our commercial metropolis.

Why not? Though Virginia had been largely ruined by careless tillage and the exploitation of a single crop, her rich lands beyond the mountains were rapidly filling with a people destined to produce raw materials for which the East and Europe presented a ready market, and as yet the northern States had no such fertile and populous hinterland. Her harbors and roadsteads were ample for the fleets of the world. A latter-day Congressman, pleading for a larger navy, pointed out that we have "plenty of ocean" and added dra-

matically: "It is only the ships that are lacking." Virginia had only to make a way for bateaux trading with the West and its future was assured. Never, since Washington, has this dream of a commercial South been forgotten; and the regeneration of the Baltimore and Ohio Railway, the development of the port of Norfolk, with innumerable similar phenomena, give hope that it will still be realized. The idea had another implication which Washington nowhere expressed but which could scarcely have escaped him. Already the agricultural South was jealous of the commercial North and resisted the idea of a united authority chiefly from fear of being lashed to the triumphal chariot of the money power. If the backlands were to be "connected" with the seaboard States, and the South were thus to become commercial, there would be an end to this jealousy, the chief danger of secession. Things would have happened differently in 1862 if the commercial centre of the nation had been, as Washington dreamed, on the Potomac.

The crux of the problem of the Potomac Company was financial. The Ohio Company of Washington's youth, being dependent upon its own capital, had long languished. As early as 1770 Washington perceived that a more modern and more vigorous programme was needed. He tried to induce the Virginia Legislature to authorize a company on the new Scotch plan,[14] with an adequate capital stock, subscribed both in Europe and America, the dividends to be paid by collecting tolls. The company was to operate on the Potomac. As always, local jealousy intervened—that of Richmond and the valley of the James. In 1772 he overcame it, by having the bill authorize also a James River Company to fashion a second waterway over the mountains from Richmond to the Great Kanawha and the Ohio. For the Potomac Company it was obviously desirable to enlist the co-operation of Maryland; but again local jealousy blocked the way. The effort was defeated by Baltimore merchants. They were alarmed, "and perhaps not without cause," as Washington remarks sardonically, by the prospect of having their land traffic with the West diverted to the Potomac.

After the Revolution, in 1784, we find him personally negotiating with the Government of Maryland and magnanimously placing his future metropolis not at Alexandria in his own State but at Georgetown in Maryland. The fact is highly suggestive of a later inter-

est in the astute political log-rolling, generally attributed to Hamilton alone, which gave the Federal City to the South. In view of this sop, the rest of the State outvoted Baltimore. In December of 1784, at the Maryland capital, Washington presided over a joint commission which agreed, among other things, that Virginia and Maryland should each subscribe to fifty shares of the Potomac Company.[15] The reason alleged was that private subscriptions would thereby be encouraged; but it may be observed that the way was thus opened to the State treasuries and ultimately to the National Treasury—without aid from which the life of the enterprise would have been brief. The Potomac Company was formally launched in 1785. In all this Washington clearly recognized progress toward a more perfect union. He seems even to have influenced the *Virginia Gazette* to proclaim it as early as 1784.[16]

VII

A more immediate impulse was given to the movement by the commercial relations already existing between the two States, out of which came the Mount Vernon Compact of 1785 and the Annapolis Convention of 1786. These have been hallowed by historians as the origin of the Federal Convention of 1787. In a way, they were; but it is important to note that in themselves they were as signal failures as the Potomac Company ultimately proved. The decisive impulse toward the great Convention came from a quite different quarter. One thing, however, is thoroughly in proportion with the result, the care and labor bestowed upon them by their promoters, notably Washington.

The difficulty with which he had to contend is illustrated by the contemporary agitation for the Virginia Port Bill. Not even for itself could the legislature be wise commercially. The chairman of the committee on commerce, however, was Washington's "particular friend" and proselyte. As a member of the Continental Congress Madison had already proved himself a warm champion of federal union, even at the risk of censure and recall by his "constituents," the interested men at Richmond. As Washington's diary shows, he was a frequent visitor at Mount Vernon, and he continued so long a confidential friend that to him was intrusted the first draft of the Farewell Address, portions of what he wrote being retained

in the final document. The purpose of the Port Bill was of peculiar interest to Washington—to build up two commercial centres, Virginia as yet having none, on Chesapeake Bay at Norfolk and on the Potomac at Alexandria. The English had succeeded in re-establishing their system of trading with the planters individually; and, as of old, they acted as agents for purchases in England, extending the old credits. They thus held fast to their ancient monopoly of the Virginia trade, underpaying the planters for their crops and charging them dear for English goods of inferior quality. Madison found that tobacco sold at Philadelphia for "fifteen or twenty per cent, at least," more than Virginians received at their wharfs. Imports and exports for others than the great planters passed through Philadelphia and Baltimore, and Madison estimated that Virginia paid to those ports tribute of not less than thirty or forty per cent—"which, if paid into the treasury of the State would yield a surplus over all its wants." By concentrating trade in the hands of her own merchants in her two chief ports, Virginia might at once raise the price of exports and lower the price of imports. If the bill were defeated, Washington wrote to Madison, the trade of the State would "ever labor and languish."[17] But the habits of the planters would be disturbed and they raised a cry of monopoly which was swelled by local jealousy. Every possible and impossible port clamored for equal rights. Such was the particularism of the Virginia mind that the able but tortuous Arthur Lee won a seat in the legislature by denouncing the Port Bill.[18] The bankrupt State continued to pay, in ignoble tribute to English merchants, sums which would have discharged her just debts, and her trade continued to languish—if not to labor.

Only a shade less disappointing were the constructive results of the Mount Vernon Compact and the Annapolis Convention. Between Virginia and Maryland there existed a difficulty of long standing as to jurisdiction over commerce on the Potomac—a subject of vital interest to the Potomac Company. Madison put a measure through the Assembly calling for a joint commission of the two States at Alexandria. So slack was the conduct of the affair that three of the Virginia commissioners, Madison, Edmund Randolph and George Mason, were not informed of the meeting. Mason learned of his appointment by chance; but, even so, only two Virginia commis-

sioners attended. Though Washington was not a member, he managed to be at Alexandria, and so far obtruded his advice that the commissioners adjourned to Mount Vernon and drew up the compact. Subsequently they learned that the Virginia instructions required the presence of three commissioners and did not extend to several of the points agreed upon.[19]

The report of the commission bears throughout the stamp of Washington's thought. It not only asked in behalf of Virginia equal rights on the Potomac but urged free trade between the two States. It declared, moreover, that the navigation of the river was of interest not only to them but to all citizens of the United States and to all of any nation "trading to or from Virginia, or Maryland." It raised many specific questions of pressing importance in which other States were directly and obviously interested—uniform tariffs and a uniform currency, buoys and lighthouses on Chesapeake Bay and naval protection there. It urged annual conferences to consider all such matters of general interest. Because it secured her rights on the Potomac, Virginia ratified it. In a letter to Washington, Madison recognized that a commercial convention of all the States (at Annapolis) "seems naturally to grow out of" the Mount Vernon Compact. But as to the likelihood that Virginia would surrender permanently to Congress the control of her commerce, he harbored no illusion. He had, however, imbibed Washington's philosophy of patient agitation in the face of present defeat, trusting that "further experience and even distress" would eventually make possible the "adequate remedy."[20]

In Maryland the tendency toward a more perfect union seemed at first to prevail. Men interested in the Potomac Company were eager to gain a right of way through Pennsylvania without restriction—over the Monongahela to Pittsburgh and the Ohio; and they shrewdly observed that Pennsylvania was herself in the like quandary. A barge route between Philadelphia and the Susquehanna valley in the central portion of the State was possible if only Delaware would permit a tariff-free canal through its northern tip, connecting Chesapeake and Delaware Bays. With an eye to the route of the Potomac Company through Pennsylvania to Pittsburgh, Maryland urged that the first convention called under the Mount Vernon Compact, at Annapolis, should include Pennsylvania and Delaware.

Washington heartily favored the Delaware and Chesapeake Canal, perceiving that it would give New Jersey also an interest in inland navigation; and he was personally promoting a canal from the southern end of the Chesapeake to Albemarle Sound, leading to Carolina ports. Yachtsmen who to-day loaf along the inland route little dream of the great ideas and the strenuous efforts in which it originated.

If seven States could be interested, why not all? The situation affords a striking object lesson as to the truth that, though the commerce of a State might seem to be of primarily local concern, it could reach its full development only under national control. In drawing up Virginia's sister-bill under the Mount Vernon Compact, Madison extended the call not only to all the States of the southern waters but to the entire Union. Time the expositor was working powerfully if slowly in behalf of the suggestions emanating from Mount Vernon. To interested men in Virginia, however, Washington was under suspicion because of a former unsolicited intrusion of his national ideas; and, though Madison's bold stand in the Continental Congress in behalf of a national impost had not been publicly rebuked, it was very far from being forgotten. The young man contrived to have the bill sponsored by John Tyler, father of the future President, an orthodox Virginia particularist, and allowed it to sleep the sleep of seeming innocence. In the closing hours of the session the call for the Annapolis Convention was rushed through without opposition. It instructed the commissioners "to consider how far a uniform system" in the commercial regulations of the United States "may be necessary to their common interest and permanent harmony" and "to report to the several States" an Act which, "when unanimously ratified by them, will enable the United States in Congress effectually to provide for the same." In plain terms, Madison, working under the cloak of a little Virginian, had contrived that a State too ignorant and too jealous of authority to build up its own commerce should stand forth as champion of national control.

He realized thoroughly the danger of his position. Writing to Monroe, who was in Congress, he described the Annapolis Convention as "better than nothing" in that "it may possibly lead to better consequences than at first occur." For the present, he expected that

his colleagues of the Virginia delegation would "stifle the thing at its birth." The first result must have seemed even worse. Only five States attended, four of them having immediate interest in the Chesapeake waterways—Virginia, Pennsylvania, Delaware, and New Jersey. The two Carolinas had specious reasons for their absence. Maryland, leading men of which were deeply interested in the Potomac Company and which had hitherto given every evidence of sympathy with Washington's ideas, refused to appoint delegates for a reason so strange as to suggest that the real motive was not avowed. Daniel Carroll wrote to Madison that it was "an overcaution in behalf of the Union" rather than "opposition to a stronger Union"—the fear being that the Annapolis Convention might "have a tendency to weaken the authority of Congress, on which the Union and consequently the liberty and safety of all the States depend." Delaplaine, in his *Life* of Thomas Johnson, a stanch Maryland ally of Washington, calls this "ludicrous." It was, but only as an understatement. What the promoters of the Annapolis Convention intended was, in the blunt phrase attributed to Hamilton, to *turn the old Congress out of doors.* That one of the most intelligent and independent State senates in America was capable of such reasoning throws a strong light on the general apathy of the time, its lack of all vision either of the future or the present.[21] Assuredly, Madison's sense of the flimsiness of the structure he had builded seemed more than justified.

VIII

The fifth State was New York, and one of its two commissioners was Alexander Hamilton. This proved decisive, though the scale trembled long in balance. At the age of eleven, sometimes called tender, Hamilton, employed as factotum in a country store, had written to his friend Stevens: "To confess my weakness, Ned, my ambition is prevalent, so that I contemn the grovelling condition of a clerk or the like, to which my fortune, etc., condemns me, and would willingly risk my life, though not my character, to exalt my station. . . . I shall conclude by saying, I wish there was a war." Never did a child more surely father the man. The war came; but, there and thereafter, "fortune, etc.," continued to condemn him to the condition of "a clerk or the like"—first as Washington's

most trusted aide and then as the principal Secretary in his Cabinet. The military life for which his ambition prevailed was limited to two miniature exploits. As Captain of artillery he arrested temporarily the advance of the Hessians across the Bronx at White Plains and as Colonel of infantry he stormed a redoubt at Yorktown. Intellectually he was the paragon of what is sometimes called a Sulphite; yet there are times when it seems that his strategy as a statesman, momentous alike in achievements and disasters, was a bromide enlargement of these military kodaks. Whether in defense or attack his instinct was for the frontal onslaught. Now, in 1786, flimsy and tottering as was the structure Washington and Madison had reared, he proposed to use it to launch a call for the federal constitutional convention he had dreamed so long. It is the process which Wall Street speculators call pyramiding—the base of the pyramid being in the air.

As to the purpose for which it was called, the present needs of commerce, the Annapolis Convention did nothing, the representation being judged too thin. In the absence of Maryland, there was no one to suggest that Pennsylvania swap free trade on the Monongahela for free trade across the tip of Delaware. The session, which lasted only three days, was devoted to Hamilton's brilliantly audacious proposal. As it happened, New Jersey had authorized her delegates to consider "a uniform system" not only in commerce but "in *other* important matters." Hamilton's friend and colleague of the New York legislature, Troup, is authority for the statement that, though he was chiefly responsible for the fact that his State was represented at Annapolis, he had "no partiality for a commercial convention *otherwise than as a stepping-stone to a general convention to form a general constitution.*"[22] Under his inspiration, the Convention seized upon this small point of vantage, the stepping-stone of a single and probably fortuitous word, and issued the momentous call.

Though Hamilton was not himself a member of the drafting committee, he somehow managed to write the draft. In its original form it emphasized the present danger from anarchy, not only to commerce but to the very existence of the Republic, and insisted upon the need of a strong central government. Edmund Randolph, now at the height of his popularity, urged caution and tact. "Madison

observed to Hamilton, 'You had better yield to this man, for otherwise all Virginia will be against you.'" Fortunately Hamilton yielded. As issued, the call from Annapolis said nothing of anarchy or of federalism and was a model of persuasive if specious reasoning.[23] Even in its milder form, however, it carried to an extreme the principle of another dashing revolutionist, *Toujours de l'audace.* The Potomac Company had fallen into the doldrums and the bright prospect opened up by the Mount Vernon Compact had vanished; but, from the take-off of these failures Hamilton proposed a single, airy flight to a constitutional convention and a constitution that should place the whole above its parts. That Madison and Randolph regarded the call as no more than a striking gesture is scarcely to be questioned. Yet Hamilton succeeded, and a world that rightly values audacity, especially when it is successful, has acclaimed him.

IX

What the patient and cautious Washington thought of this foray against the powers of darkness he nowhere put into words; but it is evident enough in his correspondence of the next six months. Hamilton, the young man who in the Revolution had angrily and intemperately resigned his post as right hand of the Commander-in-Chief, in order to become a Colonel of infantry! Hamilton, the young man whose threat of implied powers had made the indispensable impost impossible! Hamilton, the young man whose plot to use the army and its Commander as puppets to overcome the constitutional authorities had so nearly plunged the infant republic into civil war! In the silence of his meditations, Washington may well have used the phrase which he later used to Châteaubriand on learning that the romantic novelist had come to America, alone and unaided, to explore the Northwest Passage to Asia. President Washington smiled benignly and exclaimed, "Well, young man—*young man!*"

BOOK FIVE

THE GREAT CONVENTION

CHAPTER XIII

THE REAPER AND HIS SCYTHE

I

No contrast in our history is more striking than that between the two men, great innovators both, to whom we chiefly owe the Constitution. Washington's trust lay in time, "the faithful expositor of all things." His philosophy had much in common with that of Francis Bacon, though he was incapable of Bacon's subtlety and acuteness: *Quis novator tempus imitatur, quod novationes ita insinuat ut sensus fallant.* Washington could not imitate or insinuate. In collaboration with Time, he did what came to his hand—labored in concrete materials steadily, constructively, imaginatively; said what he thought, when put to it, in terms clear and bold. But even more fully than Bacon he revered the Faithful Expositor. Hamilton had neither the subtlety of Bacon nor the reverence of Washington. He scorned the Old Gentleman of the Scythe as a doddering temporizer. As he admonished Washington in this very matter of the new Constitution, "Decision is true wisdom." He was quite capable of sowing the wind in order that he might ride the whirlwind.

His *decision* was, to be sure, highly intelligent. He delighted to burn the midnight oil, digging out every pertinent fact as to confederate republics, ancient and modern; delighted to think of our future not only realistically but in terms of systematic ideas. That he found opportunity for so much reading and thought, immersed as he was from boyhood in war and politics and legal practice, is one of the marvels of biography. His mind was not so much his servant as his master, making him a slave to the creative impulse; the moment the harvest was needed, it drove him to the reaping, regardless of rain or sun. He was eternally hustling and bustling the Old Gentleman of the Scythe. Washington's philosophy was as much wiser and ampler as his genius was more profound and his service to his country greater. Yet in all reforms there is a place and a mo-

ment for the apostle of decision. We can never be too grateful that Hamilton thrust the instrument into his hands and, along with Father Time, effectually bustled and hustled him.

II

It must also be said that in Hamilton's utmost rashness there was method. Fortune favors the brave, especially when they know what they want! His rushing of the Annapolis Convention was far less desperate than it doubtless seemed. The time was more nearly ripe than Madison and Randolph were aware, even Washington. Their experience was, primarily, with a State purely agricultural: Hamilton had the advantage of living in a community strongly mercantile. In Virginia, the commercial-collectivist idea was exotic—essentially theoretic and remote from native instincts and matters of familiar observation. The few leaders who stood for it seem to have been mainly influenced by Washington's personal authority. When the acid test came, Jefferson, Madison, and Monroe, Patrick Henry, Benjamin Harrison, George Mason—all Virginia, in fact, save Washington, John Marshall, and Harry Lee—reverted to the agricultural-particularist type.

In the North, competent observers already saw about them everywhere the ruin wrought by particularism. "Interested men" were plying the people, soldiers of the Revolution and other good folk ruined by it, with projects of paper money, land banks, abolition of the courts—which could only deepen their misery and bring the great ideal for which they had sacrificed so much to futility and derision. They were encouraging merchants caught in the post-war chaos to prey on one another in tariff wars, to the ultimate ruin of all. For some time there had been signs of reaction. The States preyed upon were eager for a remedy. Merchants in Boston and New York, even in Newport and Providence, were beginning to see that one and all could prosper, and America take its rightful place in the markets of the world, only by a united effort such as other nations made. With all this, Hamilton was in close touch. And here was Virginia, agricultural Virginia itself, on the side of collective control—and behind Virginia, Washington. Whatever the fact, the forces of wisdom and substantial interest, Northern and Southern, agricultural and commercial, appeared as if united. What a vantage

ground from which to assail the battalions of ignorance and self-destructive selfishness!

It is none the less true that the decisive part was played by fortune. Time the Expositor served Hamilton a turn as lucky as it was unexpected. The argument for national control which proved decisive was civil war. When the commissioners met at Annapolis, Shays's Rebellion was in its early and comparatively harmless phase. Twelve days before, at Northampton, a mob had seized the Court-House and dispersed the judges, but the proceeding had been orderly in its way, quite without bloodshed, and the authorities showed a resolute front.[1] Randolph, certainly, and also Washington, still thought that Massachusetts, thanks to a constitution admirably energetic, was quite equal to the emergency.[2] It is even doubtful whether the news was known at Annapolis. It reached the New York *Daily Advertiser,* via Boston, on September 9, 1786, when the Commissioners to Annapolis, who arrived on September 11, must certainly have set out on their journey of two hundred miles. The Convention lasted only three days. Not until December did the Rebellion become really serious.[3] After that and throughout the Winter, violence increased, culminating in defiance of all government, in clamor for an equal redistribution of property, in armed conflict and slaughter. Toward making possible the Constitution of 1787 Shays's Rebellion did more than Hamilton's call, more than the commercial need of a stronger union, though the manner in which it did so has been seriously misunderstood.

III

Recent historians, it is true, have rescued Shays and his followers from the misrepresentation and obloquy of a century and more, and in doing so have performed a great service. Beyond question, grievances were real and deep. For generations the Massachusetts legislature had favored the land speculator as against the laboring farmer whom he exploited.[4] And now it added folly to wickedness. In the face of the post-war disorganization of industry and finance, it levied taxes that were not only excessive but flagrantly unequal. The legal system was crude and cumbersome and enabled shyster lawyers to buy up claims and prey upon citizens already cruelly oppressed.[5] Men of proved character and industry, including many who had

given their best to the Revolution, found themselves in the loathsome debtors' prison or on the way to it, and thus cut off from the last hope of retrieving their fortunes. Such were the fruits of liberty! Small wonder that they resorted to violence to keep the courts from sitting. Though Shays seems not to have had the capacity for important leadership, he was a man of estimable character and had served with credit throughout the Revolution. He volunteered at the alarm of Lexington and was promoted for gallantry at Bunker Hill; he was in the expedition against Ticonderoga and fought at Saratoga and Stony Point, rising to the office of Captain. He was now poor, but surely it was an honorable poverty. Of his twenty-one followers who were prominent enough to be indicted for treason, six were described as yeomen and fifteen as gentlemen. So far as is known, all of his captains had served in the Revolution. Yet the vested interests in Massachusetts branded these men as an ignorant, self-seeking and cowardly rabble; summarily refused to consider whether the wrongs they complained of "really exist or not," insisting that armed insurrection be handled as such; decreed that all officers of the grades commonly commissioned be hanged as traitors and that the rank and file be disfranchised. Eventually there was a general pardon, but the contemporary judgment of the character of the rebels endured for over a century.[6]

James Truslow Adams attributes this harshness of deed and word to panic on the part of the moneyed interest and its attendant violence in suppression. That sort of thing is familiar throughout our history and doubtless played its ignoble part. He points also to the wrong-headedness and imbecile vacillations of the legislature, which were certainly a powerful contributing cause. Less convincing is his suggestion that if the franchise in Massachusetts, instead of having a considerable property qualification, had been broad as in New Hampshire and Vermont, the Rebellion would not have occurred. It is a curious obsession of nineteenth-century liberalism that one has only to give men a vote in order to make them intelligent, self-controlled and patriotic; that lawmakers elected by the poor and forlorn are necessarily wiser and more honorable than those elected by men of substance and of experience in large affairs.

As to a basic economic difference between Massachusetts and her neighbors on the north, Mr. Adams says nothing. In agricultural

communities, disorders of commerce and finance are less keenly felt —food and shelter and clothing, the produce of the soil and of household industries, being had as usual. Massachusetts was the most thickly settled and most thoroughly commercial State in the Union, and it was hard hit by the ruin of its industries. Its lumbering, whaling and cod fishing, once employing many men, were at a standstill. Workers in factories started during the Revolution were cast adrift. Not only was the suffering keener but the sufferers were better grouped for organization. Though it was characteristically the frontiersmen who resorted to armed violence, the Rebellion originated in and emanated from the easterly commercial centres. At best the question of the franchise was secondary and remote. All that was needful to restore prosperity was wisdom in the State legislature and especially an intelligent national control of commerce and taxation—a viable constitution. The welfare of the individual depended upon collective welfare. When this was achieved the people of Massachusetts became prosperous and law-abiding, and the State extended its franchise step by step with the advance of nineteenth-century democracy.

In brief, where the Massachusetts Legislature of 1786 was wrong-headed and futile, the rebels were touched with the madness said to be the instrument of destroying gods. Legislative wisdom having momentarily failed, they rejected all constituted authority. What they intended was pure democracy, the direct assertion of the will of the masses—a quite logical deduction from the slogan under which they had fought the Revolution, that all men are created equal.

Those who opposed the Rebellion were well aware of this, and we have abundant evidence that the dominant cause of their abhorrence and severity was not so much property panic as fear for their newly won constitutional liberty—determination that the Revolution should remain stable, constructive, and not follow the logical course of revolutions to "democracy" and individualism run mad. Mr. Adams quotes a "conservative" writer in the Massachusetts *Gazette* as saying: "Though all power originates *from* the people, it does not remain *with* them. We have a government of our own establishment, equal to all powers for which government is established; and laws of our own making; we annually choose the officers of that govern-

ment; they are answerable to us; and they are bound to alter the laws or to make new ones, according to the exigencies of the people." Fixed in his point of view of the nineteenth century, Mr. Adams writes: "If such talk as this represented the attitude of the conservative leaders, a clash could hardly be avoided." But "such talk" was the very essence of the constitutional theory of the eighteenth century and was uttered by all the great leaders of the Revolution—by Washington in almost identical words. The prime tenet of his constitutional doctrine—and this he frequently expressed—was that, so long as legislature and executive were in office, they should exercise freely "all powers for which government is established." [7]

Mr. Adams is especially severe on his namesake, the "Father of the Revolution." It was Samuel Adams who presided over the meeting, held in Faneuil Hall, which refused to consider whether the grievances complained of "really exist or not" so long as there was question of armed insurrection; and he is said to have written the address it published. James Truslow Adams finds "a certain sardonic humor" in Sam Adams's condemnation of the precise means, group action, by which, ten years before, he had fathered the Revolution. Let us laugh when we can; but to gain the true historic perspective we must note that in both cases the Father was standing solidly on the ground of constitutional liberty as he and his fellows of the Revolution conceived it. The Constitution he and his cousin John had fathered was in danger. The rebels were a small minority: Knox estimated them at "about one-fifth part of several populous counties." And "to say the majority shall not govern, is saying either that we will reduce ourselves to a state of nature, or reject the ideas of civil liberty." It will scarcely be charged that this Father was a victim of the panic-repression complex of the money power—having, no doubt, a coat on his back but probably not the means of another one.

IV

To Washington, viewing the conflict from his bucolic retirement, the crisis was primarily constitutional, and of the gravest. His distress was greater because he had supposed the Massachusetts Government "among the most energetic of the Union," as indeed it was. "For God's sake tell me," he wrote on October 22 to his old aide and friend Humphreys, then in New England, "what is the cause of

these commotions? Do they proceed from licentiousness, British influence disseminated by the Tories, or real grievances which admit of redress? If the latter, why were they delayed until the public mind had become so agitated?" To Harry Lee in Congress he wrote: "Know precisely what the insurgents aim at. If they have *real* grievances, redress them if possible; or acknowledge the justice of them and your inability to do it in the present moment. If they have not, employ the force of government against them at once. If this is inadequate *all* will be convinced that the superstructure is bad or wants support." His insistence upon a fair-minded inquiry, and his human sympathy with the sufferings of the time, are in striking contrast with the summary harshness of the far more "democratic" Sam Adams. With "wisdom and justice" he ever coupled "liberality." The proposal to disfranchise the rebels he heartily disapproved. Yet he had a massive sense of the responsibility of government for public welfare; and, good conduct from the legislature being granted, he was for the extreme of established authority. Lee had suggested that, at the invitation of Congress, Washington might *appear among the seditious* and exert upon them his "unbounded influence." In reply, Washington wrote and italicized a sentence which should ever stand as a warning against the tendency of representative assemblies to temporize with the clamor of a minority: *"Influence* is no *government."* [8]

That the new democracy vitally threatened republican principles he became fully aware. From General Knox, whom Congress had sent to study the commotion upon the spot, he received warning of a danger he had feared at Newburgh—that British gold would flow through Canadian channels for the purpose of dismembering the Union in anarchy. The *creed* of the rebels, Knox added, "is, that the property of the United States has been protected from the confiscation of Britain by the joint exertions of *all;* and therefore ought to be the *common property of all;* and he that attempts opposition to this creed is an enemy to equity and justice, and ought to be swept from off the face of the earth." [9] The italics were added by Washington while quoting the passage to Madison. It is too seldom realized that the corollary of the doctrine of biologic and political equality is communism and its inevitable violence—that, except for the dogma under which we declared independence, communism has

no logical foundation. The inequality of men in wisdom and virtue is the fact upon which our bicameral legislatures were builded, and the demand of the rebels that the Massachusetts Senate be abolished as "useless" shocked Washington deeply.[10] "We are fast verging to anarchy," he wrote to Madison; and he added: "Will not the wise and good strive hard to avert this evil?"

Outwardly different as Shays's Rebellion was from the recalcitrancy of the Virginia Legislature against national control, the basic impulse was the same, a distrust and defiance of that collective authority which Washington and his fellows deemed essential to republican government, to liberty itself in any high sense of the word. Laboring farmer and slave-driving aristocrat subscribed with equal enthusiasm to a saying still current and honored among us: "The happiest country is that which is governed least." If any demonstration of its falsity could avail it would have done so when the extensive powers of the Constitution, framed the next year, enabled Washington and Hamilton to create prosperity and effective liberty as if by magic. Yet in the face of this, the spirit of State particularism fused, little by little, with that of an unbridled individualism; wrecked the "system" dear to Washington in the Revolution of 1800; brought futility and disgrace in the War of 1812 precisely as it had done in the Revolution and the "critical period" that followed it, and eventually plunged us into the Civil War. Washington's liberalism and humanity with regard to Shays's Rebellion command Mr. Adams's admiration, but the true picture cannot be had without limning in also the identity of his constitutional principle with that of the writer Mr. Adams condemns. Leaders deliberately chosen by the people should lead. *Influence* is no *government!* Anarchy is to be averted only by establishing a just balance between the will of the people and the authority of "the wise and good."

In the Continental Congress the wise and good strove hard "to avert this evil"—but, being impotent, they were obliged to strive artfully. The national arsenal at Springfield was in danger of capture by the rebels and the federal government had no clear power to invade a State. The avowal of any such purpose was sure to raise a clamor of State rights. So the wise and good called for an army to serve on the frontier against Indians, intending a surprise foray into Springfield.[11] Fortunately this invasion by Congress of a sovereign

State did not come to the test. The Rebellion was suppressed by General Lincoln and a force of Massachusetts militia, also largely soldiers of the Revolution, which he raised and equipped by methods peculiar as those of Congress. The State treasury being empty, he went in person to a group of men in Boston who were not only wise and good but rich and well born, and "suggested to them the importance of their becoming loaners of part of their property if they wished to secure the remainder." [12] The result of the break-down of collective authority was class war.

V

Meantime the alarm from Massachusetts was producing a response to the call for a federal convention in striking contrast with the indifference of the States to the meetings at Mount Vernon and Annapolis. Virginia led the way. Within a month it "unanimously agreed," as Madison reported to Washington, to comply with "the recommendation from Annapolis in favor of a general revision of the federal system," and he spoke of this change of heart as a direct result of "lessons" taught by Shays's Rebellion. New Jersey followed in November and Pennsylvania in December. Delaware, the Carolinas, and Georgia fell in line.

Massachusetts hesitated for reasons similar to those which had made Maryland frown upon the Annapolis Convention. The existing Confederation, Rufus King urged, "was the act of the people," and a proposal for a new Constitution could come only from their representatives in Congress. On the same ground he had prevented action in the Congress of 1786.[13] Under Hamilton's inspiration, the Annapolis Convention had, in fact, overleaped the strictly legal method. But the pressure of events was irresistible. In February of 1787, when the Rebellion was at its height, Congress convened in New York. Madison was a member of the Virginia delegation. Hamilton was practising law in the city and a member of his State Legislature, then in session. To quote his filial biographer, who was manifestly biassed but had sources of information now closed, and whose description is lifelike in the extreme: "All the influence of his attractive manners and generous hospitality was now seen. He mingled daily with the members of the federal government; his house was their constant resort; his conversation was full of the

great theme of a more perfect union. . . . He broke the opposition of Massachusetts in the person of King, observing to a friend, 'I revolutionized his mind.' "[14] Certainly King became a strong federalist; Congress gave its formal sanction to the proposed convention; and, in April, Massachusetts appointed delegates to the Philadelphia Convention.

With his own State, Hamilton had less success. Governor Clinton had been supreme in its politics since the Revolution and had no mind for the intrusion of a superior authority. He was an undoubted patriot in his way, and a politician of great force and shrewdness; and he had an entire lack of the education and the imagination that inspired the great Virginia particularists to their best as to their worst. The commerce of the State was at a standstill, however, and rebel ideas were sifting in from Massachusetts, even the rebels in person. In March, thanks to the federalists led by Hamilton and Schuyler, New York appointed delegates to Philadelphia. Hamilton was too able and too prominent to be omitted; but Clinton managed to save his bacon, or so it seemed. The two other members, Yates and Lansing, were narrow particularists of the Clinton school and were sure to throw the vote of the State against every soundly national measure.

Favorable action on the part of the States had coincided almost precisely with the progress of the Rebellion. Not until the middle of February, 1787, did Lincoln disperse Shays's army and even then the spirit of the rebels was by no means crushed; it continued in fierce mutterings until the legislature finally freed one and all. Shays and his two chief followers were not pardoned until June 18, over a month after the date fixed for the opening of the Constitutional Convention. Meanwhile the wise and good James Bowdoin had been turned out of the governorship of Massachusetts in favor of the weak-kneed, popularity-seeking John Hancock, and the legislature had suffered an upset even more radical. Until the Constitution was formally ratified, leading men in many States, and notably Washington, feared the outbreak of similar insurrections at their own doors. Talk was rife of a break-up of the Union into separate confederacies and of the danger that in the turmoil many States or groups of States would revert to allegiance to England. Not a few even of the most "respectable" leaders believed that the

only safeguard of the liberty they had won was an American monarchy. It was not until the crisis in Massachusetts threatened anarchy everywhere that Washington's cry for a stronger government became most eloquent, that his sense of the failure of republicanism sounded the most tragic depths. On the death of General Greene, he wrote to Knox that, in his "keenest sorrow" he often questioned whether their old comrade would not have "preferred such an exit to the scenes which, it is more than probable, many of his compatriots will live to bemoan." [15]

VI

Yet Washington evinced a seeming indifference to the coming Convention, a distrust of it, which are curiously characteristic. In the face of the advice and the pleas of his loyal comrades of the Revolution, his most trusted advisers, he seemed determined to absent himself. The reasons he gave were as various as they were numerous; and, so far as they went, they were undoubtedly genuine. Those who urged him to go—largely, no doubt, instigated by Hamilton—hinted an obvious fact, that he would be made President of the Convention and, if a new Constitution were achieved, would be called upon to preside over its establishment. But on disbanding his army, and again on laying down his commission as Commander-in-Chief, he had declared that he was retiring permanently from public life. To reappear on the scene thus prominently, he argued, would impugn his sincerity—and Heaven knew his one wish was to reduce the chaos of his estate to solvency and then enjoy the shadowed privacy of vine and fig-tree! That excuse did not go very far. Even less impressive was a difficulty in his relations with the Cincinnati, of which he made much. He had resigned the Presidency of the Society and announced that he could not attend its approaching convention. By an unlucky accident, the Constitutional Convention was called for the same time and place. Possibly he felt that his presence in both would cast upon the new Constitution the blight of the old hatred of the Cincinnati. What he said was that, if he attended, he could hardly explain his former desertion of the comrades who had stood by him so loyally, and for whom his love was as great as his gratitude. He ignored the fact that it would be far harder to explain to any patriot his desertion of the Constitutional

Convention. As the calls for his presence multiplied, he expressed fears that the representation would be as thin as at Mount Vernon and Annapolis—and the States appointed delegates, pell-mell; he repeated Rufus King's doubts as to the constitutionality of the call from Annapolis—and Congress effectually removed those doubts. At one time he had the excuse of an attack of rheumatism—so painful that he could not lift his hand to his shoulder or turn over in bed; but, all too soon, he was well again. At almost the last moment his mother fell ill—on her deathbed, doubtless, as he pleaded with one drooping and one auspicious eye. But Mary, tactless as always, got well.

His real reason, nowhere fully expressed, peeps out constantly in his correspondence of the period and becomes almost emphatic in Marshall's series of excerpts from it—the stately and reticent array of which seems intended to produce this effect. The Convention bade fair to be dominated, like the Continental Congress, by the State legislatures—those "interested men." His address to them on laying down command of the army, in which he pleaded for constitutional reform, he had made "in the most solemn manner," as "a last legacy"—and they had "neglected" it. (In point of fact, legislators in his own State still bitterly resented it.) "I had then perhaps some claims to public attention.—I consider myself as having none at present." The last two words are the significant ones. If civil violence increased, it might be otherwise.

Frequently he hints at this. "Commotions of this sort, like snowballs, gather strength as they roll." "There are combustibles in every State, which a spark might set fire to." His old aide, Humphreys, speaking for the "friends who have been about your person" warned him that, in such an event, he would have to "take part on one side or the other, or withdraw from the continent." Washington answered that his mind "had often been agitated by" the thought. Things must become worse before he, a soldier, could take a hand in making them better—so bad that the fate of Nathanael Greene might be enviable![16] Constantly he recurs to the idea that before the people could *see* the prevailing folly they must *feel* the effects of it. At the very last moment, on April 9, Knox gave a peculiar turn to the screw of his insistence, arguing that the Convention was the only alternative to a Constitution imposed by armed force, and that

if Washington refused to lend the weight of his authority to peaceful means, "slander and malice" would impute to him, during the conflicts that ensued, a preference for measures of violence. Not yet was Washington moved. Envy and ingratitude, as he repeatedly said, are "the vices of a republic"; a single false step might make him powerless forever, as has happened to many a subsequent hero—as eventually happened to him, without the false step.

What he was waiting for, in all probability, was a time when the interested men themselves would everywhere be glad to have him emerge from obscurity and once more accept the leadership of the American nation—perhaps at the head of an armed force devoted to civil order but certainly to the end that the Constitution be ordained and established by the people. Only so could he appeal to the people over the heads of the politicians. Only so could he raise his voice to urge a more energetic government. Meanwhile the prestige of his name and presence must be jealously guarded. A failure of the Convention, he wrote, would be peculiarly unfortunate "for a person in my situation." [17] He quite lacked Hamilton's turn for producing a whirlwind in order to ride it—being quite content with the whirlwinds offered by Father Time.

There was deep pride in his aloofness, but a self-effacement as deep. Under stress of the Revolution the contending forces in his rich and passionate nature had fused and blended into a serenely spiritual whole. As a raw Colonial on the French and Indian frontier he had been no more loyally brave than fiercely assertive of his dignity; but as leader of a republican army he had learned to subordinate himself rigidly to constituted authority, however wrong-headed and presuming. John Adams and his bungling Board he treated with high respect, the preposterously arrogant Gates with infinite patience and magnanimity. Now he was hero of a glorious war, reverenced throughout the world by lovers of justice and liberty; but, by the same token, the decisive step must be taken not by him but by the American people and their representatives. His personal pride and his duty as republican were one. "If I know myself, I would not seek or retain popularity at the expense of one social duty or moral virtue. . . . Whenever I shall be convinced that the good of my country requires my reputation to be put in risk, regard for my own fame will not come in competition with an ob-

ject of so much magnitude."[18] No wonder the peaceful triumph of the Convention seemed to him a miracle.

VII

For once the abortive young leader proved a miracle man! No statesman ever worked against greater odds. As Clinton had doubtless foreseen, the fact that Hamilton was harnessed with Yates and Lansing made him in effect a representative without a constituency, disfranchised him in the Convention. As regards moral and intellectual leadership he was handicapped quite as seriously. The reports of 1779 that he was for having the army "turn Congress out of doors" had now the confirmation of his part in the movement of 1783 at Newburgh, which was well known in the Convention—to Washington, Madison and the two Morrises certainly, and doubtless to many others. Every one knew that as Member of the Continental Congress he had stood for a federal impost collected by federal agents, and for enforcing it by "implied powers." In both projects his audaciously avowed purpose was to base federal authority on the "public creditors"—a consolidated moneyed interest. He had thus alienated particularists everywhere and especially in the agricultural and largely insolvent South. Now, thanks to the influence of Washington, the Virginia delegation was itself advocating a plan which granted all he had stood for and much more—the plan which was leading the way to the triumphant Constitution; but in Virginia and elsewhere legislatures would not be favorably impressed by the advocacy of a man whose threat of a commercial republic had of late so deeply outraged them. So long as the Virginia plan was favorably discussed, Hamilton spoke little and mainly to second the motions of others. In private, doubtless, he exerted to the utmost the influence of his brilliant intellect and gaily seductive personality. He had, moreover, a resource which was beyond the power of George Clinton to conceive—or of any one, for the matter of that, except Alexander Hamilton; and he held it in reserve for the inevitable crisis.

This came when the Convention took up the question whether the power of the several States in Congress should be proportioned to population or be "equal," as under the Articles—an equality of American citizens as against an equality of State legislatures. Such

"proportional" representation was obviously of advantage to the larger States, and the Carolinas and Georgia now stood with them, being confident of a great increase of population in their western lands. But it was as obviously warranted by the spirit of republican institutions. Even in the small States to the north which could look for no great increase of population, the people as a whole seemed to feel this; the objection, as was often pointed out in the Convention, came mainly from politicians who were jealous of a superior authority. By and large, as James Wilson said, people would feel fully compensated for any loss of pride in their State by an ampler pride as Americans. "Will a Citizen of *Delaware* be degraded by becoming a Citizen of the *United States?*" [19] But members of the Convention from Delaware, as also from New Jersey and Connecticut, professed themselves "astonished" and "alarmed" that their States should have only one or two votes in the national legislature where Pennsylvania, Massachusetts and Virginia had twelve to fifteen. As a compromise, Roger Sherman of Connecticut proposed that population should be represented proportionally in the House, and the States equally in the Senate. He declared that "the smaller States would never agree to" any other principle. Talk of secession was rife.

Franklin, who had stood for "proportional" representation at the time of the Albany plan of 1754, as also in 1776 when the Articles were framed, remarked that "until this point . . . came upon us, our debates were carried on with great coolness and temper"; that "we were sent here to *consult,* not to *contend* with each other," and that "declarations of a fixed opinion, and of a determination never to change it, neither enlighten nor convince us." He pleaded for "harmony and union" in "promoting and securing the common good." "Equal" representation in the Senate was defeated, six States to five.[20] The result was a threat of schism from the small States, in the shadow of which New Jersey introduced an alternative plan.

In favor of this plan it was urged that it limited itself strictly to the powers Congress had vested in the Convention—merely to revise, correct and enlarge the Articles of Confederation—whereas the Virginia plan demolished the Articles and reared a structure fundamentally different. The enlargements the Virginia plan proposed

were chiefly remarkable for their smallness. It provided an executive branch measurably distinct from Congress; but this was to be elected by Congress itself and, for fear of "usurpation" and "tyranny," it was to be not a single President, but that weakest of all contrivances, a plural Directorate proceeding by majority vote. It granted the long-mooted federal impost and authorized Congress to make regulations for collecting it; but, still grasping at all authority within State borders, it did not authorize Congress to appoint and back up the collectors, without which efficient administration was impossible. Though it recognized that the revenue thus raised would be insufficient, it provided no means of adding to it but the old system of quotas and requisitions, authorizing Congress to make rules for the collection but stipulating that these should be imposed only with express consent from the States. It authorized Congress to pass acts for the regulation of commerce, foreign and domestic, but confined all suits and prosecutions to the State courts, allowing appeal to national courts for "the correction of errors" but providing no inferior national courts. It provided that treaties should be supreme over the laws of the several States; but, for them as for all other acts of Congress, it provided no means of enforcement but armed invasion. Congress could not collect revenue or honorably enforce a treaty without inviting civil war. The legislature remained unicameral and in it the smallest State had an equal voice. With more truth than humor Hamilton might have said of this plan that it was "pork still, with a little change of the sauce."

That the New Jersey plan was preferable as adhering thus strictly to the old Articles was at best a debater's point, as was amply shown in the sequel, when the men who had urged it accepted without question a thorough separation and balance of powers. It can only have been put forth for bargaining purposes, to force "equal" representation in the Senate. On this point debate was long and bitter. Under Washington's influence the Virginia delegation was willing to submit to collective control if only the State were proportionally represented in both House and Senate; but the inflammable Luther Martin of Maryland could see no other reason for Virginia's sudden conversion than an itch to increase her "power and influence over" his own small State.[21] John Dickinson, who represented little Delaware and was an anglophile always, admonished

the Virginians as follows: "You see the consequence of pushing things too far. Some of the members from the small States wish for two branches of the General Legislature, and are friends to a good National Government; but we would sooner submit to a foreign power than submit to be deprived of an equality of suffrage in both branches of the legislature, and thereby be thrown under the domination of the large States." [22] In plain terms, rather than give citizens in Virginia, Pennsylvania and Massachusetts the same power as citizens of New Jersey and Delaware, he was for secession and reincorporation in the British Empire. Madison was moderate as always when he declared that the New Jersey plan produced serious anxiety lest the Convention end in shipwreck. At this crisis Franklin, philosopher and sceptic though he was, earnestly urged that future sessions open with a prayer for divine guidance.

VIII

There was instant need that a ramrod be thrust up the backs of all who favored a government at once republican and national. Hamilton, throwing off his seeming submission to the predicament in which Clinton had placed him, resumed his familiar rôle of shock-corps of one. Far from championing the Virginia plan, he made light of it, calling it "nothing but democracy checked by democracy, or *pork still, with a little change of the sauce.*" [23] Instead of it, he pictured an ideal of republican government which made it seem tame and mild by comparison. That this was his motive he virtually admitted in after years, and Madison said much the same.[24] His onslaught upon the pretensions of State as against national sovereignty was only one part of a comprehensive and drastic plan for asserting national stability and vigor; but it was sensational and subjected him throughout his life to charges of having urged the annihilation of the States and the establishment of a monarchy and a nobility; and, the records of the debates being withheld under the Convention's self-imposed rule of secrecy, he was unable effectually to clear himself. But this time his personal sacrifice was justified by the public gain. His son records that he spoke "between five and six hours" and that "a competent judge," naming Gouverneur Morris in a footnote, pronounced his speech "the most able and impressive he had ever heard." [25] Certainly it occupied the entire session

of July 19 and impressed the Convention as did no other single speech.

That he acted without consulting Washington we have his own testimony written at the time.[26] Doubtless he wished to avoid all appearance of co-operation with sponsors of the Virginia plan, knowing that advocacy from him would in nowise commend it. In all probability he felt that Washington would be little prone to sympathize with a manœuvre so spectacular and hazardous. And, as always, we have to reckon with the fact that he seems not to have felt himself on intimate and confidential terms with his chief. In the framing and establishment of the Constitution nothing is more paradoxical and astonishing—nor, in a queer way, more pathetic and appealing—than this lack of personal contact between the two chief agents, the two most dynamic and original innovators. Yet in essential idea, they were thoroughly in accord. "My wish," Washington had written to Madison from Mount Vernon in March, "is that the Convention may adopt no temporizing expedients, but probe the defects of the Articles of Confederation to the bottom, and provide a radical cure, whether they are agreed to or not. A conduct of this kind will stamp wisdom and dignity on their proceedings, and hold up a light which sooner or later will have its influence." In a dark hour in which he repented "having any agency in the business," after Hamilton had made his speech and gone home, he wrote him that the only question as to the Constitution ought to be: "Is it, or is it not, the best form that such a country as this can adopt?" And now, as always, Washington's esteem and affection are in striking contrast to Hamilton's aloofness. He added: "I am sorry you went away."[27]

Madison's record of the speech is pitifully condensed and bare, occupying scarcely more pages than Hamilton took hours in the delivery; and other records are still briefer and more fragmentary. The best evidence as to its scope and purpose is Hamilton's skeleton outline, the jotted notes from which he spoke. There he introduces his proposal as a "solid *plan* without regard to *temporary* opinion," and describes it "not as a thing obtainable but as a model which we ought to approach as near as possible."[28] This solid plan he based on the historic theory of the balance. He denied that *vox populi* is *vox Dei* and called for an equal power of "the few" as against "the

many." In this he was in general agreement with his fellow members. Time and again they voiced the opinion of Montesquieu and his followers down to John Adams—that, more fully than any other, the English Constitution combined public strength with individual liberty. They added always that in America a hereditary king and a hereditary nobility were impossible, and that ultimate power must rest with the people; but here also Hamilton was with them. In his first boyish statement of constitutional principle, ten years before, he had insisted that original constituent power lies with the people as a whole, and he continued to do so throughout his life.[29] Only on one point did he differ with them, but it was vital. Though they were deeply shaken by the rebellion in Massachusetts, many of them, and notably Washington, still believed that it was possible not merely to approximate the English Constitution but to establish a form of government in advance of it—that it was the high destiny of America to be the torch-bearer of truly republican liberty to the peoples of the world.

In Hamilton this hope was dim at best. "In his private opinion, he had no scruple in declaring, supported as he was by the opinions of so many of the wise and good, that the British government was the best in the world: and that he doubted much whether anything short of it would do in America. . . . Their House of Lords is a most noble institution. Having nothing to hope for by a change, and a sufficient interest by means of their property for being faithful to the National interest, they form a permanent barrier against every pernicious innovation, whether attempted on the part of the Crown or of the Commons. . . . The hereditary interest of the King was so interwoven with that of the Nation, and his personal emoluments so great, that he was placed above the danger of being corrupted." In spite of his lifelong republicanism, his doubt "whether anything short of" such a monarchy "would do in America" was deep and abiding; in the face of all Washington's administration accomplished in fixing the strength of the Constitution, it pursued him to the end. Though seemingly simple and forthright, his nature was peculiarly contradictory and liable to misrepresentation. Brilliantly progressive and creative along financial and economic lines, his political mind was backward-looking. His heart, of sterling worth in all personal and domestic relations, was curiously untouched by

love of the American people or by sympathetic understanding of them. "His love for his country was always greater than his love for his countrymen."[30] In sensing his character and conduct one is sadly liable to forget how emphatically he was *not* a Tory during the Revolution, and how ardently and unflinchingly, after it, he spent himself in behalf of the Republic.

His legislature was bicameral. The House was to be elected by the people directly; and, in order to keep it subservient to the popular will, it was to be re-elected every three years. Senators and President were to be elected indirectly "by electors chosen for that purpose by the people." Justices of the Supreme Court were to be appointed for life. Thus far he was in general agreement with his hearers—with the Constitution as it was eventually written. His difference arose from the fact that he proposed "to go as far in order to attain stability and permanency as *republican principles* will admit." To make his Senators and President correspond as closely as possible to a House of Lords and a King, he was for electing them for a term limited only by their "good behavior"—for life unless successfully impeached. Not only was the Senate to have an absolute check on the House, but the President was to have, not a qualified, but an absolute veto. After his speech he drew up a formal constitution detailing his ideas. In addition to indirect elections, the senatorial check and the life tenure of Justices, it contains a surprising number of features embodied in the instrument finally adopted.

His idea as to "Monarchy" was persistently misrepresented, and is so to-day. He defined it with the utmost clarity. Can a nation be regarded as a republic, he asked, which submits to a senate and a president for life? "Yes," he answered, "if all the magistrates are appointed, and vacancies are filled, by the people, or by a process of election originating with the people. . . . It will be objected probably, that such an Executive will be an *elective Monarch*. . . . He would reply that *Monarch* is an indefinite term. It marks not either the degree or duration of power." When he spoke, the idea was that the President should serve for seven years. If his executive would be "a monarch for life," he said, "the other proposed by the Report from the Committee of the whole would be a monarch for seven years." His thought, as always, was in terms not of words but of things.

At Versailles in 1919, when the premiers of Europe were negotiating with the President of the United States, they were amazed to find that he wielded powers more extensive and more absolute than those of any constitutional king or prime minister—a monarch for four years. Our Senate we still regard as guarantor of "stability and permanency." What the Constitutional Convention, with consciences untroubled, called "the monarchic element" and "the aristocratic element" in our Constitution has since yielded somewhat to the pressure of democracy; but in its essence it largely remains. Where Hamilton was most exigent on these points he differed from his colleagues only in degree, not in kind—merely as to the extent of the President's veto and of the presidential and senatorial tenure of office. But that point seemed to him of great importance. To the end of his days he feared that the Constitution would not survive the onslaughts of democracy. While still a young man, he offered himself to Aaron Burr's pistol—threw away his life and impoverished a family dearly loved—rather than compromise his power of forming and directing the Republic.

So great is the popular effect of mere words, however, that even while the Convention was in session the rumor went forth that a strong faction in it was bent upon establishing "a kingly government." McHenry saw Mercer check a list of the delegates and asked the meaning. "He told me laughing that those marked with a *for* were for a king." The intemperate Luther Martin got hold of the list, and "in his tavern harangues" at Philadelphia declared that "more than 20 Members of the Convention were in favor of a Kingly Government," repeating the charge somewhat more soberly before the Maryland Legislature. While the Convention was still sitting, a report was circulated in the gazettes that the intention was "to apply for a sovereign of the house of Hanover," the Bishop of Osnaburgh being named.[31] Hamilton did his best to hunt down and refute these charges, but in vain.[32] In the New York ratifying convention he was obliged to defend himself during two days from such charges. A decade later when the anti-federal party was organizing, Jefferson took up the convenient charge of "Angloman" and "Monocrat," Madison himself ultimately lending to it his authority.

The main force of Hamilton's onslaught upon the New Jersey plan was delivered against the control which the State legislatures

would exert over National legislation—their retention of sovereign powers. To prefer an equality of States to an equality of the individuals of the nation "shocks too much the ideas of Justice and every human feeling," and could only end in an alienation of the larger States which would "destroy" the nation. The central government, in order to have adequate powers, must act upon individuals equally and directly. And this it could not do so long as the States insist upon their former measure of sovereignty. "Two Sovereignties cannot co-exist within the same limits." The States "are not necessary for any of the purposes of commerce, revenue or agriculture"; they must become mere "subordinate authorities . . . corporations for local purposes." On this point the anti-federalist Yates gives a more spirited record: "No amendment of the confederation can answer the purpose of a good government, so long as the State sovereignties do, in any shape, exist. . . . We must establish a general and national government, completely sovereign, and annihilate the state distinctions and state operations." [33] Madison reports Hamilton as saying that the nation must "swallow up" the States or "be swallowed up by them"; but the graphic force of his words was not revealed until 1811, when Gouverneur Morris reported them: "If Aaron's rod could not swallow the rods of the Magicians, their rods would swallow his." [34]

The shock of this onslaught was terrific. The day after his speech, Hamilton protested that he "had not been understood" as to the "abolition of the States." Yet he could only repeat that the States should become mere corporations—that *"as States,* he thought they ought to be abolished." Two days after this he very seriously proposed to provide against "a time when State legislatures may cease." [35] Clearly, the idea was to annihilate the States as sovereigns *competing* with the national sovereignty. So insistent was Hamilton on this that the Governors were not to be elected by the citizens but "appointed by the General Government," and, in connection with it, to have a negative upon State laws, as the British Sovereign and royal governors used to have upon acts of the Colonial legislatures. The result of all this must have been to obliterate local self-government, to centralize national authority as republican France was so soon to do.

Yet Hamilton's basic idea was of a validity that seems to have

eluded his warmest admirers. Already his mind was occupied with the possibility of secession; and already he differed significantly on the point with his still fervent ally Madison, who even thus early had ideas that developed into the Kentucky and Virginia resolutions.[36] But for the present both saw the chief difficulty in the problem of investing the national government with an adequate power of "coercion" over the State governments. They had begun to see the power that would accrue by virtue of the fact that national authority was to act, not upon States, but directly upon individuals; but as yet neither saw clearly the importance of the Supreme Court in this regard. Madison vigorously denied that it should have power to negative acts of Congress as unconstitutional, even acts of State legislatures; nor did he foresee that its decisions could transcend those of local courts in the case of individuals of the same State.[37] The only means of national coercion prominent in men's minds was armed force—an invasion of recalcitrant States by a standing army. Hamilton saw that this would amount to "war between the parties." He added a sentence that reads like a prediction of the Civil War: "Foreign powers will not be idle spectators; the confusion will increase and a dissolution of the Union will ensue." Madison, having begun as an advocate of armed coercion, had shifted uneasily to a negative by Congress upon State laws—which would be clumsy and tardy at best and would constantly threaten sectional disruption. In comparison with these ideas, Hamilton's call for a complete subordination of the States is at worst debatable.

Doubtless it is desirable, all but indispensable, to foster the spirit and the practice of local self-government, and doubtless Hamilton was not sufficiently alive to the fact. Washington saw things more truly. Four years before the Convention he likened the relation of States and nation to that of the wheels of a clock and its mainspring; but he insisted always that the States should retain all functions which did not clash with those of the "general" government. It was enough if the part had no power as against the whole. Hamilton made no such reservation. Aaron's rod must swallow the rods of the magicians or itself be swallowed. His prophecy has been more nearly fulfilled than we like to admit. As early as 1811 Gouverneur Morris could write: "At present the influence of the general government has so thoroughly pervaded every State, that all the little

wheels are obliged to turn according to the great one."[38] The statement was premature. Not until the Great Rebellion did Aaron's rod complete its swallowing, and the several States are still political entities vigorously independent. Hamilton's onslaught upon State sovereignty characteristically overshot the mark; but, like Washington, he made his constitutional intent unmistakable. Ill-advised as he seems to-day, few would hesitate between what he proposed and the Civil War.

Hamilton's reputation as a public speaker is overshadowed by his achievements as writer, thinker, and constructive statesman; but there can be no question that he ranked among the three greatest of a period rich in orators. In dramatic attitudes and rhetorical fervor he was undoubtedly surpassed by Patrick Henry, and in imagination and moral force by John Adams. He made no such outcry as "Give me liberty or give me death!" and no such patriotic appeal as Daniel Webster so plausibly reconstructed from Adams's known phrases—"Sink or swim, live or die, survive or perish, . . .!" His voice, though well modulated and agreeable, was unequal to such things; and, though his bearing was that of the soldier and the gentleman, he was notably short of stature and slight in physique. In a convention so small and so distinguished, moreover, the business of which was as far as possible removed from the emotional, declamation would have been out of place. The need was for intellectual conviction and intimate personal persuasion.

In this his speech appears to have been a masterpiece. He ranged learnedly but lightly over the world's experience of republican institutions, over the history of confederacies ancient and modern. With a telling allusion to Shays's Rebellion, he pictured vividly the imminent danger of blighting the fruits of the Revolution and urged the one means by which, as it seemed to him, the future of the Republic could be assured. It may have been an element of weakness that, where John Adams was robustly a Yankee and Patrick Henry as unmistakably a Virginian, Hamilton breathed always an air of the foreign and exotic; but it was also an element of power. His deep blue eyes, "almost violet," and his reddish-brown hair, were doubtless an inheritance from the distinguished Scotch clan of his father, as was also his trenchantly philosophical mind and the incisiveness of the points he made, which fell as blow upon blow; but the aqui-

line fearlessness of the glance from his upturned face, together with his gaiety and verve and vivacious charm, his fine silk and fine linen and still finer adroitness in address, seem as clearly to have come from his French mother. The most impressive praise of his speech is that of small-State representatives radically opposed to his ideas. Luther Martin called it "most able and eloquent" and Dr. Johnson of Connecticut, at once admiring and satirical, described it as "praised by everybody" though "supported by none." Its loss is to be regretted equally, perhaps, with that of the great speech by John Adams which was our real declaration of independence.[39]

Hamilton is reported to have said, years later, that Washington and Madison "entirely concurred in his views"—regarding the plan he submitted "as not exceeding in stability and strength what the exigencies of the country required." Like himself, they did not "suppose it could possibly carry," yet they were *"completely up to the Scheme."* After the speech Hamilton, "in constant conversation with the members," endeavored to "work them up to a system of competent energy and stability." The result was that the Convention was "raised to a point which otherwise it would not have reached." Hamilton made this statement confidentially, in 1799 or 1800, to his military secretary, Thomas Y. Howe; and it was not until 1840 that Howe reported it to J. C. Hamilton.[40] In itself, it has thus no great value as evidence; and it is obviously not strictly accurate. Washington certainly, and doubtless Madison, had a far deeper belief in the American people, a far purer hope of republican institutions.

Yet there is abundant evidence that in the main the claim was justified. The nation was buffeting between the Scylla of monarchy on the English plan and the Charybdis of split-up confederacies which in all likelihood would revert to the English allegiance; and the Convention found a middle way in a scheme which, while soundly republican, embodied the monarchic principle. When it was proposed that the President be elected for life or good behavior —an "elective monarch"—four States out of ten voted *aye*. Madison spoke cogently in favor of the proposal and carried the vote of his State with him. In the light of his subsequent complicity in the Jeffersonian attack upon the Hamiltonians as "monocrats" he thought it necessary to explain this conduct; but his excuse is of the kind that accuses. It is true that he speedily changed his mind. But

so did Hamilton, who presently came to prefer a brief presidential term, fearing the tumults incident to an "elective monarch." Even in the matter of the States, he eventually perceived that if they did not exist (as Voltaire said of the Deity) one would have to invent them. In the New York ratifying convention he gave the idea eloquent expression.[41]

IX

On the day following the great speech, Madison took up the discourse. At this time he was intimate with Washington as Hamilton appears never to have been. It was not merely that they were closely associated as citizens of the same State and members of the same delegation. Even if Washington had not designated the young statesman as his "particular friend," the fact would shine forth in the innumerable letters that passed between them. As to their present relations there is a bit of evidence curiously ignored. Among Washington's papers was found a summary statement as to historic confederacies, ancient and modern, with notes on the "vices" of each and references to Latin and French authorities, all in Washington's handwriting. Sparks printed it. Irving remarked that Washington could scarcely be the author as he knew no foreign language; but he recognized its biographic importance. Ford omitted it without comment. Gaillard Hunt found the original, when preparing his noble edition of Madison's writings. Containing citations in Latin which Washington did not copy, it occupies twenty octavo pages of small type. The manuscript is on sheets "which, put together, formed a compact little book, suited to be carried in the pocket." But Hunt seems not to have known that Washington copied all that he could read of it—a fact of great importance as illustrating the relations of the two and also the pains which Washington took to remedy the "defects" of his education. As to Madison's relations with Hamilton in the matter, we only know that what the scythe spread before him he diligently garnered.

Upon Madison's power as a speaker John Marshall bestowed this judicially qualified superlative: "Eloquence has been defined as the art of persuasion. If it includes persuasion by convincing, Mr. Madison was the most eloquent man I ever heard."[42] Something more than this might be said of his writing—perhaps also of his forensic

style. In subtle and systematic reasoning, in variety and richness of thought, several of his papers in *The Federalist* surpass the best of Hamilton.[43] Restrained and measured in idea and in expression as Hamilton was dashing, his vision of national strength was, at this period, almost as bold, and his command of argument no less masterly. Where Hamilton was brilliantly stimulating, he was soberly rational—*convincing* as to the need of a government as energetic as that of the Virginia plan. Very wisely he made no reference to the events of yesterday; and Hamilton, with equal tact, once more assumed the subordinate rôle which Clinton had planned for him, speaking seldom but always cogently to the point—the truly "respectable" government upon which his heart was set as was Washington's.

It was admirable team-work and the result was immediate. That very day the Convention voted, seven States against three with Maryland divided, "not to agree to the Jersey propositions but to report those offered by Mr. Randolph"—the Virginia plan. Decisions soon followed in favor of a bicameral legislature and a House of Representatives elected not by the States, but directly and proportionally by the people. For ten days Hamilton remained at Philadelphia, giving what aid he could. Then the time approached for deciding as to representation of the States in the Senate. As regards heavy work in the Convention, he had shot his bolt, and he set out for New York to take up his legal practice and the cares of a young paterfamilias.

X

His journey crossed that of Gouverneur Morris returning to the Convention after a long absence.[44] Whether the shift was preconcerted we do not know, nor whether they met and conferred—only that Hamilton's bosom friend and comrade of the push essayed at Newburgh conferred with Washington and then renewed the attack Hamilton had begun. That Morris's intelligence was of a high order and his personal charm potent his whole life is witness. Of his substantial worth Washington's enduring regard for him is strong evidence, as is his own able and powerful stand later in the Convention against slavery. But other evidence is not very abundant. Comparing his present conduct with Hamilton's recent stroke, one somehow feels a slacking of moral tone.

A salutary deadlock had been created by Abraham Baldwin, a Yankee emigrant to the South who had divided the vote of Georgia, so that there were five and a half States for and against "equal" representation in the Senate. Except for the interim thus afforded to restore tempers and perceive consequences the Convention would probably have blown up. Morris assumed Hamilton's rôle of solitary shock-corps. He took the position, in itself very strong, that "equal" representation of the States would defeat the primary purpose of a Senate as reservoir of the nation's wisdom and virtue. He had obviously been reading John Adams's recently published *Defense,* and he shows familiarity with Harrington; but he paraphrased both imperfectly, sensationally. Adams had described the Senate in glowing terms as a counterpoise of wisdom against the will of "the many" whenever, as so often, it is passionate and unwise. But, with sound republican sense, he pointed out also that it is the means of guarding against any undue ascendancy of "the rich, the well-born and the able." Harrington's conception of the balance of interests is similarly instinct with the ideal of justice. On Morris's lips both ideas become unreal and extravagant—a caricature. "*Abilities* and *virtues* are equally necessary in both branches. Something more, then is wanted [in a Senate]. 1. The Checking branch must have a personal interest in checking the other branch. One interest must be opposed to another interest. Vices, as they exist, must be turned against each other. It [the Senate] must have great personal property, the aristocratic spirit; it must love to lord it thro pride. Pride is indeed the great principle that actuates both the poor and the rich. The aristocratic body should be as independent and firm as the democratic. . . . To make it independent, it should be for life. It will then do wrong, it will be said. He believed so: He hoped so. The rich will strive to establish their dominion and enslave the rest. They always did. They always will. The proper security against them is to form them into a separate interest. The two forces will then control each other. Let the rich mingle with the poor [in a single chamber] and, in a commercial country, they will establish an oligarchy." The similarity of his purpose to Hamilton's is evident in his closing sentence: "He only meant to hint these observations, without grounding any motion on them."

It fared equally ill with his expression of Washington's deep sense

of the importance to the world of the American experiment, and of his abiding conviction that the Constitution they were framing should be such as to deserve success whether or not it achieved it. The Addisonian and Catonian elevation of this idea Morris translated into a vague and unmeaning optimism. "The whole human race," he said, "will be affected by the proceedings of this Convention. . . . If the plan we recommend be reasonable and right, all who have reasonable minds and sound intentions will embrace it."[45]

It is scarcely to be wondered at that the Convention was not impressed. The bargainers behind the New Jersey plan triumphed. Small States received the disproportionate representation in the Senate which they enjoy to-day, and the question as to the precise limits of State sovereignty remained unanswered.

Madison was shrewdly aware of the difference between these two playboys of the western world. Hamilton, when shown the record of his speech, read it carefully, acknowledged its general accuracy, and made a few minor corrections. Morris glanced through the record, laughed and said, "Yes, it is all right." Madison is reported to have made this comment: "Gouverneur Morris's speech was a very extravagant one. It displayed his usual talent, and also, in a striking degree, his usual fondness for saying things and advancing doctrines that no one else would. At the moment, he was not perhaps conscious how far he went; and when the thing *stared him in the face* (this was Mr. M.'s exact expression) as written down by me, it caused him to laugh, while he acknowledged its truth."[46]

In Hamilton there was no such laughter. His most exaggerative moment was convinced and sincere; his thought and his purpose were luminous and straight-edged as quartz-crystal. In a public life inspired in the main by a chivalresque honor and probity he was guilty of occasional lapses—the invariable failure of which evinces, among other things, how complete was his lack of experience in obliquity. But at his most tortuous he was actuated only by regard for the national good as he saw it. His brilliant biographer, Frederick Scott Oliver, describes him as possessed by "the spirit of the hive." The description is true in a sense that Mr. Oliver may not have intended. Hamilton's outlook, like that of the hive, was as narrow as it was intense. As to that great field of human endeavor which then lay outside the sphere of politics and economics—the

field of social and spiritual welfare—he had no discernible comprehension. But it is also true that, like the hive, Hamilton saw the present always in the light of a more opulent to-morrow; that, in behalf of the collective good, he never hesitated to sacrifice the happiness of the individual—himself first and foremost.

XI

Washington's modesty, and his position as President of the Convention, forbade him to urge his opinions—for the most part even to voice them; but his superiority to his ablest colleagues in moral fibre and the statesman's intelligence is evident in his expression of the high duty of the Convention to itself and to the world. The phrasing owes something, perhaps, to Gouverneur Morris, who related the incident in an oration upon Washington's death; but the idea was Washington's familiar companion and guide from boyhood. "It is too probable that no plan we propose will be adopted. Perhaps another dreadful conflict is to be sustained. If to please the people, we offer what we ourselves disapprove, how can we afterward defend our work? Let us raise a standard to which the wise and the honest can repair. The event is in the hand of God."[47]

Whether Washington's larger vision would have prevailed if it had had a more impressive exponent than Gouverneur Morris is an interesting question. The gain of a single State would have sufficed —of a single vote in the Georgia delegation. It is true that two small States were absent from the Convention, Rhode Island and New Hampshire, and that the Constitution had still to run the gauntlet of ratifying conventions. But such are the arguments ever used in behalf of compromise! Washington may well have questioned whether the wise and the honest would repair to the standard of a Senate in which a bare majority of the members, representing perhaps only a quarter of the nation, can block any measure; in which a third of the members plus one, representing less than one-tenth of the people, can block a treaty desired by the great bulk of the nation. Still worse is the fact that this inequitable representation cannot be modified without the unanimous consent of the States.

Perhaps the chief evil of this Senate compromise was that it opened wide the door for others of the same kind. A Constitutional amendment, or the repeal of it, can be blocked by one more than a

fourth of the States, containing perhaps one-twentieth of the people. The question whether representation should be based upon population or wealth, or upon a ratio between the two—which, absurd as it seems to us, was a very real question to the Fathers—was settled by basing it on population. This the commercial States felt to be an injustice in that it gave the less opulent South an equal power over legislation affecting the great Northern interests. But the South demanded besides that representation be based on the number of free inhabitants *plus* three-fifths of the slaves. On no other terms would it agree to permit Congress, by the vote of a simple majority, to pass laws promoting commerce. As the small States received a disproportionate representation in the Senate, so citizens of the South received a disproportionate representation in the House and in presidential elections. Moreover, at the behest of South Carolina and Georgia, in the deadly rice swamps of which negro labor was very profitable, the importation of slaves was authorized for twenty years, until 1808. And, like the question of State sovereignty, the question of the extension of slavery to new States was left open. Washington seldom indulged in "the most gratuitous form of error"; but evidence abounds that he foresaw in all this the seed of *another dreadful conflict.* Certainly his "particular friend Mr. Madison" was keenly alive to the antagonism between North and South; and, with his marvellously clear and comprehensive if legalistic mind, he saw that secession was not forbidden.

To us of to-day it is clear, as it could scarcely have been to Washington, that the Constitution of 1787 was a work of the greatest originality, the most successful daring, the most self-denying forbearance. Even the territorial Senate has achieved fame from the fact that most subsequent federal Constitutions have adopted it. The Covenant of the League of Nations grants equal representation in one of its two branches to large states and small. In the Council, it may be remarked in passing, it bases representation on a rule-of-thumb modern equivalent of "property and numbers": only the nations that have the chief stake in commerce, war and peace have permanent seats. If the Convention was not "an assembly of demigods" as Jefferson called it in quaintly neoclassic phrase, it yet exceeded in constitutional learning, in intellectual grasp and in wisdom, any assembly of the kind in the history of the world. It is too little recog-

nized that the qualities which illumine the pages of *The Federalist* are a reflection of those developed at Philadelphia. Several members who are virtually unknown to fame deserve to rank with Hamilton and Madison—George Mason and James Wilson for fundamental ideas that were then or later embodied in the Constitution; Roger Sherman and Charles Pinckney for ideas the value of which we are only beginning to realize. Even the spirit of tolerant compromise deserves much of the praise it has received in a world that attunes itself with some difficulty to Washington's benignantly austere idealism.

Toward the end of the Convention one feels a steadily heightening sense of achievement, of triumph. Paterson, co-author and chief champion of the unicameral New Jersey plan, became a convert to the bicameral balance, if he was not so already, and eventually a stanch Federalist. Franklin held to his unicameral convictions and to his abhorrence of "equal" representation in the Senate, but the fact that he did so only heightened the effect of the eloquent plea he made for the wisdom of forbearance. He had often questioned whimsically whether the sun painted on the back of Washington's chair was rising or setting; now he declared that it was a rising sun. Hamilton, who had acceded so far as he could to Washington's desire for his presence,[48] abandoned every personal preference and pleaded eloquently at the close that the Convention recommend the new Constitution unanimously. Comparing its grant of commercial and financial power with the long failure of the old five-percent impost, he may well have felt elated.

In this atmosphere of agreement Washington at last ventured, though reluctantly, to urge a specific measure—that, instead of one Representative in the House for every 40,000 inhabitants, there should be one for every 30,000. He urged this larger representation as "a security for the rights and interests of the people." In a world in which Congressmen are all too numerous and too much inclined to speak for Buncombe, the point may not seem important; but to Washington the smaller popular representation "had always appeared among the exceptionable parts of the plan." His advocacy reversed a majority in the Convention. If it had not done so, it is more than likely that Virginia, and perhaps other States, would have rejected the Constitution. In the ratifying conventions many

held strongly that, even as thus enlarged, the House was too small. Having sixty-five members to the Senate's twenty-six, they argued, it would be almost equally made up of men of property and social eminence—"aristocrats"; for eighteenth-century America was still, in Bagehot's phrase, very largely "deferential" to such. Washington's respect for "the rights and interests of the people" was as deep-seated and as strong as his respect for the authority of "the wise and good." The pyramid they were building, to repeat James Wilson's metaphor, was to be a high one, and it must have a broad and substantial base. Thus, and not otherwise, a standard might be raised to which republicans could repair.

On this question of the republican balance the Convention was well-nigh unanimous. Even those members who fought for the New Jersey plan did so mainly in the way of political bargaining as delegates from small States, not from unicameral principle; when they had achieved the Senate compromise most of them gladly acceded to the balance in other respects. Madison, who had a shrewdly satirical vein not unlike that of Calvin Coolidge, and who masked it as shrewdly, remarked in his old age that they "leaned to" the national authority so soon as they had achieved "more than a proportionate share" in it.[49] The stricture is not without warrant, but they doubtless realized also that their rights were best secured in a government that represents all interests and is measurably controlled by the wise and good.

Only three members refused to sign. Gerry objected that the balance had been violated by the preponderant representation which the South received through its slaves. Mason raged and fulminated against what he regarded as the preponderant power of President and Senate. Randolph had a similar objection to a single executive as paving the way to monarchy. All three were, strictly speaking, not democrats but republicans, and they remained so all their lives though members of the Democratic Party. Three others who doubtless would have refused to sign had quit the Convention in disgust. Yates and Lansing were small men and faded from the national picture. Luther Martin very soon saw a great light and climbed aboard the Federalist band-wagon—being preceded, however, by the ever-vacillating Randolph.

As to Washington's frame of mind our only record is curiously

characteristic. "The business being thus closed," he writes in his Diary, "the Members adjourned to the City Tavern, dined together and took a cordial leave of each other; after which I returned to my lodgings, did some business with, and received the papers from the Secretary of the Convention, and retired to meditate on the wk [work] which had been executed." That is all. Washington often writes of the inward struggles of his mind, and in a vein which shows clearly that they were intense—as was inevitable in a nature so passional, so idealistic and so imaginative in a simple way. But this is our only record of a definite session of meditation. His mental processes seem to have been of the deeply subliminal kind that does not readily find expression in words. That is perhaps why he was hesitant intellectually as he was reckless of physical danger.

The diary of the second day following presents this contrast very strikingly. He was journeying homeward in his "Chariot" from the Head of Elk. "My horses (two of them) had a very narrow escape. For the Rain which had fallen the preceding evening having swelled the waters considerably, there was no fording it safely. I was reduced to the necessity therefore of remaining on the other side or of attempting to cross on an old, rotten and long disused bridge. Being anxious to get on I preferred the latter, and in the attempt one of my horses fell 15 feet at least, the other very near following, which (had it happened) would have taken the Carriage with baggage along with him and destroyed the whole effectually." By timely help and "great exertion," horses and carriage were "rescued from hurt." Not a word as to the occupant of the "Chariot" and his escape from being "destroyed effectually."

That other bridge which his young friend Hamilton had constructed from Annapolis to Philadelphia was no more rotten; and Washington had been no less "anxious to get on." Yet his caution had been phenomenal. Was the footing on the bridge just constructed at Philadelphia any safer?

He appears to have thought that, on the whole, it was. To Lafayette he wrote, indeed, that if the Constitution were bad it would "recoil on the framers." He still husbanded the authority of his name as carefully as he did his broad acres—and, it must be said, somewhat more successfully. To Americans he expressed moderate approval. He admitted that there were "things" in the Constitution

"which never did, and I am persuaded never will, obtain my cordial approbation," though he characteristically refrained from saying what these were; but he pointedly asked whether "the new form" was not better than the old Articles, whether another convention would be likely to improve on it, and whether there were not adequate provision in it for amendment. He even declared, to the recalcitrant Patrick Henry, that the alternative was "anarchy," the seeds of which were "deeply sown in every soil." Under his own vine and figtree, his enthusiasm seems to have broken bounds. A friend visiting at Mount Vernon wrote to Jefferson, "I never saw him so keen for anything in my life."[50] As State after State joined in ratification, his nerves of steel tingled and his athletic arteries swelled with a blood-pressure the like of which they had not known since, as he was closing in upon Cornwallis at Yorktown, he wrote: "Hurry on, then, my dear Sir, with your troops on the spur of speed"; and "Send it, I pray you, *on the wings of speed,* for I am almost all impatience and anxiety." Only now there is a touch of exaltation of the spirit. Writing again to Lafayette he says that present expectations are "so much beyond anything we had a right to imagine or expect eighteen months ago" that their realization "will demonstrate as visibly the finger of Providence as any possible event" can do so. Forgetting how deeply he had once doubted whether mankind were capable of self-government, he declares that it has always been his "creed" that "Providence" could not have vouchsafed to Americans so favorable an opportunity "for nothing"; and again: "The great Governor of the Universe has led us too long and too far on the road to happiness and glory to forsake us in the midst of it."

XII

Doubtless it was Almighty Providence that presently swayed the Virginia Convention, but the majority of only 89 against 79 suggests that it had a hard time of it. It was there that John Marshall, himself speaking ably, observed young Madison's greatness—the dogged conviction with which, point by point, he checked the bitterly sarcastic George Mason and that verbal volcano Patrick Henry. And behind all that Madison said, as he tactfully impressed upon the Convention, was the tried wisdom of Washington and his unsullied authority.

In New York, meantime, Providence was even more sorely put to it. The Convention met at Poughkeepsie. Governor Clinton was in the chair and commanded a hostile majority of two-thirds, representing a popular majority estimated at four-sevenths. But on the floor was Hamilton, the Little Lion as he was called—and this time no one attempted to cage him. Scott Oliver finds the proceedings "very puzzling." Time and again the Constitution "was rejected by a clear majority" and the next day Hamilton "returned undaunted" to champion it. The fact was that the debate was in Committee of the Whole.[51] Bitterly anti-national as Clinton was, he appears to have been afraid to risk his political future by making his State the first and perhaps the only one to refuse ratification, hoping that New Hampshire and Virginia would lead the way. It was a small opening but Hamilton worked at it valiantly. He was seriously hampered by sensational reports as to his great speech in Philadelphia. His position as to "monarchy" he explained convincingly. His views as to the "annihilation" of the States he softened and indeed reversed, doubtless as result of an honest change of mind. Often he spoke for hours at a time, and thrice he was obliged to stop by physical illness, exhaustion. Poor as was this young paterfamilias, he had arranged at his own expense that riders bring him the results from other States. Toward the end of June, breathless and dusty gallopers brought the tidings from New Hampshire and then from Virginia.

But Clinton also fought hard and doggedly, for four full weeks longer—though now, in all probability, his purpose was to gain material concessions as the price of surrender. One day a friend setting out for New York asked Hamilton what report to make. He replied gloomily that thus far the voting had been two to one against them; but, as his friend turned to go, he added with a sudden change of manner, "Tell them that the Convention shall never rise until the Constitution is adopted." Clinton's object was to make ratification conditional upon "previous" amendments and other stipulations destructive of its effect. At one time Hamilton was so hard pressed that he seriously considered a proposal that the State reserve a right to "recede" if the amendments it demanded were not made within a specified time. This, as Rives puts it in his life of Madison, was to introduce into the Constitution a provision for its own dis-

solution.[52] Madison, whose view of secession had been, and was again to be, legalistic and hair-splitting, now gave him council as wise and noble as it was sensibly to the point. "*Conditional* ratification . . . does not make New York a member of the new union. . . . The Constitution requires an adoption *in toto* and *forever*."[53]

Little by little Hamilton wore down opposition, actually converting his chief opponent on the floor, Melancthon Smith—an achievement almost unparalleled in parliamentary debate and creditable alike to both. All that Clinton was able to secure was a circular appeal to the other States, advocating a second convention. Though this deeply alarmed Washington, it proved to be without evil effect. Hamilton's final appeal to the Convention is said to have risen to great heights of pathos and of patriotism. Many among those who had opposed him found their eyes brimming as he invoked the spirit of their comrades who had died in the Revolution, and with it the living spirit of Washington. He triumphed, but by the slenderest of margins, thirty to twenty-seven. The Constitution had always had the support of the great leaders of the Revolution and now it was assured the support of an overwhelming majority of the States.

In the civic pageant with which New York celebrated the event, devised by Pierre l'Enfant, the float of the printers carried a press, proclaiming the might of *The Federalist;* that of the sail-makers carried the good ship *New Constitution* fully rigged. The principal device, or so Hamilton's son writes, was the Federal ship *Hamilton,* with its own guns popping answer to the salutes with which it was greeted. The day has been described as the proudest in his life. Certainly the triumph was most complete and dramatic. Rickety as had been the bridge from Annapolis to Poughkeepsie, the slender youth had crossed it, leading all the great forces of Federal Union. From that day, no party and no statesman of might has dared to raise a voice of protest against the Constitution. In 1805, George Clinton himself, as Jefferson's second Vice, swore allegiance to the Ship he had so bitterly endeavored to scuttle.

CHAPTER XIV

FATHER OF THE CONSTITUTION?

I

That the hidden spring of Washington's character is unknown to historians the most impressive is to be explained, as we have seen, by the methods that made them impressive. The untutored people have never doubted that the Father of his Country was wise and good. To get at his precise constitutional "system" is not so easy. In order to consider just who was Father of the Constitution—if, indeed, that resounding title can be bestowed on any man—we must take a comprehensive backward glance on the evidence of his deeds and assemble such data as developed in the light of the Convention.

The idea of a strong Union, as we know, had been dominant in his mind since 1754, when as a boy he suffered the consequences of scattered authority on the Indian frontier. On taking command of the Revolutionary army, twenty-two years later, he did his best with his two hands to knock all notions of State rivalry out of the heads of his soldiers; long before the end of the war, he had so imbued the army with the idea of American union that its favorite toast was "A Hoop to the Barrel!" That the greater Union of the future was menaced by the Alleghany barrier he saw while still a lad and a loyal English subject; and to the end of his life he dreamed of binding the new West to the seaboard States by the strong ties of commerce. In brief, what Lincoln struggled to preserve, Washington struggled as valiantly to create; and in one way their circumstances were curiously similar. That Washington abhorred slavery is evident in innumerable passages of his correspondence and in the terms of his Will; beyond question, the paltering of the Convention distressed him deeply. But his paramount purpose was to create the Union. Such an elaborately antithetical statement of the idea as Lincoln gave was beyond him; yet, as he put his name to the new Constitu-

tion, his feeling must have been the same. If he could create the Union without destroying slavery, he would do it.

Equally firm and deep-rooted was his conviction that the government of the Union could only be republican. At the first outbreak of stupid license, of sedition and mutiny, toward the close of the Revolution, many able minds reverted to the idea of a monarchy after the English model as the only means of preserving the Union—of gathering the full fruit of liberty. His response to that idea was the dressing-down he gave to the "respectable" Colonel Nicola, who proffered a crown on behalf of the army, and his decisive control of the subsequent project to impose a constitution by armed force. In the Convention of 1787, leading spirits not a few held with Hume and his like in England that the "abuses" of the English system—a royal power founded on a limited and inequitable franchise, rotten boroughs and court corruption in Parliament—were essential to the constitutional balance, to effective freedom. The conviction that we must eventually come to monarchy on the English plan was privately held and voiced until the Revolution of 1800. Washington was almost alone among leading federalists in abstaining from praise of the English Constitution. Of kings he spoke always with quiet derision—except for one roar of Rabelaisian laughter at the expense of a monarch who had presented him with a too stately stud-jackass.[1] Over-much stress has been laid upon the conservative character of our Revolution. On Pilgrim's Day, friendly Britons, striving to please Americans equally friendly, stretch hands across the sea to claim the Father of his Country as essentially an Englishman, one of the greatest. That would have pleased George Washington as little as old King George. At heart he was a rebel always against monarchy—an American and a republican.

His devotion to the "balance of orders and interests" is evidenced in his whole life—a government that unites to their common advantage the humble and the wise, agriculture and commerce. Sprung from the middling sort, he became a landowner of great wealth, familiar with the Virginia aristocracy; but his conduct was notably free from attachment to any "order." No man had a more intimate first-hand knowledge of the backwoods mountaineer; no man had a tenderer heart for the common soldier or was one-half so well beloved by him. His regard for rival "interests" was equally

catholic. A Virginian passionately devoted to farm life, he felt no less deeply the importance of manufactures and commerce, labored devotedly to promote them. Many surpassed him in constitutional learning and disquisition, but no one had a wider knowledge of the nation as a whole, a warmer attachment to it, or a purer desire to give justice to each and every group in it.

II

Nor was he a stranger to considerations of theory. Averse to discussion though he was, his ideas peep out from time to time unmistakably. Even as he renounced kingship and hereditary aristocracy he insisted upon the authority of the wise and good—the "natural aristocracy" of Harrington and Adams; and even as he abhorred direct democracy he insisted, always and vehemently, that ultimate authority must rest with the people. His belief in the separation of powers appears in comments he made on a plan of government which Knox submitted to him in January, 1787. This was of the same general type as the subsequent Virginia plan and the Constitution of 1787 which evolved from it. He remarked that the old Constitution was "exceptionable" because "the legislative, executive and judiciary departments" were "concentred," and approved Knox's proposed Government, in which they were separated, as "certainly more energetic and I dare say in every point of view more desirable." [2] His approval of the balance of orders and interests is even more clearly evident in an expression of horror at the followers of Daniel Shays because they had declared a senate "useless." His conviction did not escape him fully, however, until after Jefferson's return from Paris to be his first Secretary of State, and then it took a form characteristically concrete. At breakfast one morning Jefferson, who had been shaken from his orthodox bicameralism by the intelligentsia of the French Revolution, "called Washington to account" for having countenanced a second chamber. The President was Yankee enough to answer with a question: "Why did you pour that coffee into a saucer?" Jefferson said that it was too hot to drink. "Even so," said Washington, "we pour legislation into the senatorial saucer to cool it." [3]

Succinct as his statements of conviction are, they cover with surprising adequacy all leading topics, legislative, executive, judicial.

From the outset of the Revolution he had seen the "indispensable necessity" of taxation for "sinking the paper money"; and in 1780 he was foremost among those who urged "some common, general system" of finance and commerce in order to make effective our abundant resources in material wealth and manhood.[4] In his address to the State Governors on disbanding the army, he developed the idea so outspokenly that he alienated the politicians. Thereafter, he made only indirect approaches to those "interested men"—through Madison, Randolph and others; but his labors with the Potomac Company, which resulted in the Mount Vernon Compact and the Annapolis Convention, were avowedly intended to illustrate and to stress the need of wide financial and commercial control. Seven months before Hamilton became his Secretary of the Treasury, he wrote to Lafayette: "I think I see a path as clear and direct as a ray of light" leading to "a general system" which would establish the nation's credit.[5] Likewise he urged shrewdly, and from the first year of his command, specific means by which the executive authority under the Confederation could be strengthened—favoring a Board of War long before Hamilton and Robert Morris gave effect to the idea of ministers of Finance and State. In the Convention he was debarred from debate both by his position as President and by his reticence, but it is of record that he stood for an executive at once strongly empowered and highly responsible for his conduct. He voted for a single executive as against the plural executive urged by Randolph and Mason, and against making him ineligible a second time; he voted against the President's election by the National Legislature, as provided in the Virginia plan, apparently favoring an indirect election by the people; and, this being decided upon, he preferred that the veto be overruled only by a three-fourths majority.[6] The need of a Supreme Court he discovered as early as 1775, and he urged it persistently. Could the ablest state paper, the most brilliant forensic oratory, set forth more concretely the basic ideas of our balanced Constitution?

As always when there is question of the constitutional balance, latter-day writers have taken up the scent laid by the red herring of direct democracy, picturing the republican rebel Washington as constitutionally a conservative and an aristocrat. Perhaps the truth may be best apprehended by considering the case of men who later

became Democrats, and who even then inclined to the equalitarian dogma. Elbridge Gerry and George Mason, we are told, were "temporarily swept from their moorings" by the rebellion in Massachusetts and the general collapse of control over commerce and the financial system. Certainly they uttered opinions which were reactionary then as now—far more so than anything Washington said or did at this or any time. Gerry inveighed against "a popular election" of Presidents as "radically vicious." Mason called it "as unnatural as to refer a trial of colors to a blind man." It sounds to us worse than it was, to be sure. The most casual reading of the record will show that the thing they feared was only a popular rule direct and untrammelled—unbalanced. What Gerry inveighed against was an "excess" of democracy, the "levelling spirit" of the Shaysites in his own State, who were for a communistic redistribution of property and the abolition of the Senate.[7] What Mason advocated was no preponderant power of wealth, or even of intellectual distinction, but only a stable balance of the wisdom of the few against the will of the many—the common man being then so isolated by "the extent of the country" that he could not know enough of the candidates to judge.[8] Hamilton saw their predicament from the point of view of the English Constitution, but he saw it clearly and phrased it with his unfailing lucidity. "The members most tenacious of republicanism [as against monarchy] were as loud as any in declaiming against the vices of democracy."[9] Certainly they were far louder than Washington—who, silent now, had repeatedly declared his faith in the honesty and ultimate good sense of the people.

III

How far Washington was able to give explicit and systematic expression to his ideas is an inquiry highly interesting—and capable, I think, of an answer that will surprise his detractors. Upon the rare occasions when he felt compelled to speak, he disclosed a mind of extraordinary force and penetration.

Some seven months before the Convention, his brother John's son asked advice which it was his avuncular duty to give. For Bushrod was a likely lad, future owner of Mount Vernon and future Justice of the Supreme Court. The question was as to an organization "lately instituted in these lower counties," called the Patriotic So-

ciety, the special object of which was "to instruct our delegates what they ought to do" upon their departure for Richmond, and, upon their return, "to inquire what they have done." The young man's opinion, expressed in a later letter, was that which prevailed in Virginia, at least among First Family democrats. Representatives were "the servants of the electors," and "the people are the best judges of their wants, their own interests." Bushrod's present hope was that similar societies would be established throughout the State, and that thus "evil-disposed men clothed with power" would be prevented from abusing it.

The letter found Washington with a house full of guests and on the eve of departure for a meeting of his dearly beloved Potomac Company. It seemed to him an added embarrassment that Bushrod's messenger was "in a hurry to be gone." Moreover, he had never thought out the question systematically, decisively, though he instinctively knew that it was "very important." Bustled as he was, he began by refusing "to give any explicit answer"; the best he could do on the spur of the moment was to say what he thought "generally speaking." But, now as always, the spur of the moment found a mettlesome steed. As he wrote on, he developed a little constitutional essay admirably explicit.

In "local matters," he said, matters "wholly or in a great measure confined to the county of the delegates," the people may be competent to *judge,* and instructions may be in order. But in matters more extensive, the most important that come before a legislature, such societies "are a kind of *imperium in imperio,* and as often clog as facilitate public measures." Was there any certainty, he asked, that "societies in a corner" would possess the knowledge necessary for judgment? "What figure then must a delegate make who comes there with his hands tied and his judgment forestalled?" His very instructors, if possessed of the information and arguments presented in the general Council, "might be the first to change sentiments." The "wiser and more politic" course for local organizations was "to choose able and honest representatives and leave them, in all national questions, to determine from the evidence of reason."

In 1774, Edmund Burke had spoken to the same effect to the electors of Bristol, and half a century later Macaulay elaborated the idea. Their utterances are more orderly, more eloquent—long fa-

miliar to students of government as classic statements of constitutional principle; but neither adds anything to the substance of what Washington said with a mind so pressed that even the impatience of a negro servant worried him—nor, indeed, to its comprehensive clarity and its force.

In Washington's sense of the impending future—of the practical result of the movement toward direct democracy—he went far beyond both Burke and Macaulay. The question was not only basic in constitutional theory but was already acute politically. Local societies, "nearly similar to such as you speak of" were largely concerned in fomenting Shays's Rebellion. "They have declared the Senate useless, many other parts of the constitution unnecessary. . . . They first voted the courts of justice, in the present circumstances of the State, oppressive; and next by violence stopt them." He courteously conceded that Bushrod's Patriotic Society was above such things; yet "a snowball gathers by rolling." Once admit the principle that delegates should be bound by instructions as to "general" measures and the very being of republican government is threatened. Time, the expositor, amply justified this fear. Washington himself, as President, encountered a reflex of the Revolutionary democracy of France in American Jacobin societies, and—thanks perhaps to this little colloquy with Bushrod—his judgment with regard to them was least of all lacking in decision. The snowball rolled onward into our own time, gathering up the direct election of President and Senate, the initiative and the referendum, and dangerously threatening the recall even as applied to the Supreme Court. Nor are the best minds of the nation to-day quite clear as to when and how the people should rule.

Later in 1787, while the new Constitution was before the State ratifying conventions and others than Bushrod were haunted by fear of "evil-disposed men clothed with power," Washington gave a more philosophic turn to his thought.

> The power under the Constitution will always be in the people. It is intrusted for certain defined purposes, and for a certain limited period, to representatives of their own choosing; and, whenever it is executed contrary to their interests, or not agreeable to their wishes, their servants can and undoubtedly will be recalled [by electing another representative]. It is agreed on all hands that no government can be well administered without powers; yet, the instant

these are delegated, although those who are intrusted with the administration are no more than the creatures of the people, act as it were but for a day, and are amenable for every false step they take, they are, from the moment they receive it, set down as tyrants; their natures, they would conceive from this, immediately changed. . . . No man is a warmer advocate for proper restraints and wholesome checks in every department of government than I am; but I have never yet been able to discover the propriety of placing it absolutely out of the power of men to render essential services because a possibility remains of their doing ill.[10]

All the dangers of the alternative plan—of the dominance of "societies in a corner"—no man could have foreseen; but, even in his first hurried letter, Washington's mind was warm to them. Out of office no less than in it, men clothed with power may be evil-disposed. "May not a few members of the society, more sagacious and designing than the rest, direct the measures of it to private views of their own?" Could that modern *imperium in imperio,* the political boss and his machine, be more clearly adumbrated? The sentence that follows touches upon the question of national parties, which is to-day much farther from a definitive answer than it seemed to be before the late war showed up a crucial weakness in party government. "May not this [the dominance of sagacious, designing men in a corner] embarrass an honest, able delegate who hears the voice of his country from all quarters, and [thus] thwart public measures?" In 1912, when the Republican party machine decreed the breaking of Roosevelt and the nomination of Taft, one honest, able delegate, deeply embarrassed, remarked: "Everybody is delighted—except, of course, the people." In 1920, the same *imperium in imperio* passed the steam-roller over men of proved ability and courage—over Leonard Wood, Calvin Coolidge and Herbert Hoover—to the embarrassment of a large majority of honest and able delegates, in order to nominate the ductile Harding.

Thanks to young Bushrod's inquiry, in short, we have a vigorous statement of the ideas Washington carried into the Convention upon two questions which, mooted then, are as much alive to-day—between the direct assertion of the will of the people and the balanced republic; between the power of extra-constitutional political organizations and the authority of representatives. Clear knowledge of this correspondence with his nephew should be a basic part of the education of every American youth. Nor should our preceptors fail to

note that Washington was capable of profound and luminous cerebration, at least when forcibly put to it.

IV

When, before the opening of the great Convention, he found that his delegation intended to draw up a plan—the Virginia plan—and to offer it as basis for the new Constitution, there can be little question that his mind was painfully agitated. Able as were his associates, his authority was paramount—and of paramount importance to the entire movement. Reluctant as he had been to go to Philadelphia, he was among the very first to arrive there; we may be sure that he punctually attended the daily meetings of three hours at which, while waiting for a quorum, his delegation discussed and agreed upon the plan. In order to gain a just perspective on it, we must review briefly projects of the kind that had preceded it and were more or less familiar to the Convention. Each of them has its partisans, claiming priority.

The claim in behalf of Franklin's Albany plan of 1754 is more plausible than convincing. The balance it intended seems to have resulted from the terms of the problem in hand rather than from considerations of theory—a union of the colonies to co-operate with the home government. Though an executive council was suggested, it made no part of the actual plan and at best could have been only the germ of an upper chamber. Franklin was least of all men disposed to the separation and balance of powers.

Early in 1783 (February 16) one Pelatiah Webster—a Philadelphia merchant of the same stock as Noah and Daniel, "an able tho' not conspicuous citizen," as Madison called him [11]—printed a pamphlet proposing a plan, the general sanity and originality of which have been unfortunately obscured by Hannis Taylor's vehement contention that it "embodied the first draft of the Constitution of the United States." It resembles the Constitution in calling for a bicameral Congress, the members of which were to be, not delegates subject to recall, but representatives serving for fixed terms; but it retained two of the great vices of the old Articles: the representatives were to be elected, not by the people, but by the States as such, and were to represent them equally. There were to be executive ministers appointed by the Legislature, such as the old Congress

was developing in 1783, and also—a very interesting idea for which Webster pleaded eloquently—a "chamber" or department of commerce. But the executive was weakly plural—a President appointed by Congress and acting as Chairman of a Council composed mainly of the executive ministers. This Council was to be "the supreme executive authority of the States"—not of the *United* States; and the supremacy of their authority was conditioned by the provision that "all and singular of them" were to be "ever accountable to" the new Congress—ultimately to the State legislatures. This idea of making the Executive magistracy appointed by and accountable to Congress was urged in vain upon the Convention of 1787 by Roger Sherman. If it had obtained, a government would probably have developed very different from what we have and resembling in a very interesting manner the responsible ministry of the modern English Constitution. Yet Pelatiah Webster's plan was vitiated throughout by the fact that it was strictly federal as opposed to national: ultimate responsibility would have been to the States as such, and not to a united people. Hannis Taylor stresses the fact that Congress was to have power to lay taxes and regulate commerce; but the idea was already a commonplace. Washington had long urged it and Hamilton had endeavored in Congress to force it upon the reluctant States. Pelatiah Webster provided that if—or, rather, *when*—State legislatures refused to collect and hand over tax quotas, or bodies of citizens resisted federal authority in any way, Congress was to invade the State with an armed force. This unfortunate idea was already old and widely prevalent. In 1780 a Convention of northern States at Hartford had recommended that, as James Warren put it, Congress be authorized to force "deficient States . . . by the point of the bayonet to furnish money and supplies." [12] Charles Warren remarks that Webster's plan anticipates a much admired feature of the Constitution in that it authorized the Federal government to "act upon individuals"; [13] but the manner in which it did so may well astound us—as it did Webster's contemporaries. Members of State assemblies who voted for measures flouting national laws, even citizens who resisted their execution, could be "summoned and compelled to appear before Congress and on due conviction" fined or imprisoned. Obviously, the importance of federal courts had not dawned upon Pelatiah Webster. On the contrary, he provided that any act of Con-

gress, except to create funds, could be annulled by a majority of State legislatures, a provision which shows how far removed he was from intending a victory of Aaron over the Magicians.[14] His plan is, on the whole, superior to the New Jersey plan of four years later, especially in being bicameral and in having a Cabinet; but it is of much the same type—a development of the Articles of Confederation.

Still more advanced was a set of resolutions which Hamilton drew up at about the same time, in 1783, with the idea of urging them upon Congress. They declared against the Articles as "confounding the legislative and executive powers in a single body" and called for a federal court of "last resort" which was to have "cognizance of all matters of general concern"—a separation and balance of powers. Congress was to lay and collect "general" taxes regardless of "the inclinations of" the States. But, as in Pelatiah Webster's plan, the Members were to be appointed by the State legislatures. Presumably they were likewise to be representatives rather than delegates subject to recall; but how far this could give them a truly national authority over the power that appointed them is something more than problematical. Original and bold as the resolutions are, what they call for is essentially as Hamilton himself says, a "revisal and amendment of the old 'Confederacy.'" Even so he did not venture to introduce them, "for want of support."

Projects along similar lines were put forth by others in the years leading up to the Convention, notably by Noah Webster in February, 1785, and by General Knox in 1785–7. That of Noah Webster is worthy of far greater praise than it has received—greater, indeed, than he himself accorded it in his old age, vain though he has been generally reputed.[15] It proposed a national government modelled on that of his own State, Connecticut, and thus very effectively "acting upon individuals."

V

What, then, was the Virginia plan? Brief as it is and frequently as it has been reprinted, it has been hedged about by a maze of misconceptions—most unfortunately so, for in order to cut a way through them it is necessary to take issue with writers of the highest authority, English and American.

The great historian of federal government calls our territorial Senate, which balances an equality of citizens in the other House, a "glorious" achievement and assumes that it was deliberately intended by "the wisdom and patriotism of Washington and his coadjutors."[16] The mistake is perhaps natural. Subsequent federations have likewise found it necessary to adopt the device, and it has thus achieved fame of a sort. Yet it would seem fairly obvious that the Senate compromise was—a compromise. It was indignantly objected to in the Convention as placing "artificial beings called States" above the rights of men.[17] James Wilson, one of the very ablest minds in the Convention, likened the "equality" of small States to the power which England vested in rotten boroughs, and called it "a fundamental and a perpetual error."[18] Rather than consent to it, a majority of the delegates, representing a great majority of the American people, brought the Convention to the verge of disruption. Freeman strangely misconceives the paper on the subject in *The Federalist,* written by Madison according to Bourne. This admits that it was a "compromise" and urges only that it was a "lesser evil" than the New Jersey plan and might prove "more convenient in practice" than seemed likely.[19] To Washington as to his coadjutors, the preference of State "rights" to human rights was sectionalism, against which he inveighed as earnestly in his Farewell Address as he did in his homily of 1776 to those riflemen from the Virginia backwoods and fishermen from the salt seas of New England. In the Convention, according to Luther Martin, he was opposed to the Senate compromise—one of the few records we have of his opinions as revealed there.[20] In the Virginia plan, the Senate represented an equality of citizens, not States.

Gladstone's eulogy of the Constitution, once much quoted by obsequious Americans, has been challenged by Americans less obsequious and brought into a disrepute which in many respects it deserves; but it may be questioned whether the process has not obscured a highly important claim of the Constitution to originality. Gladstone said: "As the British Constitution is the most subtle organism which has proceeded from progressive history, so the American Constitution is the most wonderful work struck off at a given time by the brain and purpose of man." The obvious fact is that, except for the inequitable equality of States in the Senate, every

essential feature of the Constitution had been adumbrated in State constitutions set up during and after the Revolution. These were largely modelled on the colonial governments which they supplanted, differing from them in principle mainly in that they strove to exalt the legislative as against the executive power. Later research has shown reason to believe that the colonial constitutions were, in turn, largely a historic development from the chartered companies that established the first colonies, with their governors and boards of directors balanced against stockholders—an idea peculiarly appealing to a nation unusually interested in company organization and management. According to the theory prevailing in 1787, they were of still more ancient origin, being a transposition of the principle of the English Constitution, which in turn was related to the free governments of Rome and Greece.

This "progressive history" was not, however, maintained without opposition. The equalitarian idea, scattered broadcast by the Declaration of Independence and given force by the triumph of the Revolution, was everywhere gathering momentum. This was evident not merely in popular movements like Shays's Rebellion: in Pennsylvania "the brain and purpose of man," abetted by Tom Paine and Franklin, struck off a constitution that broke radically with our history, disdaining the balance. Legislative, executive and judicial functions were concentred in a single chamber, the direct assertion of the will of a popular majority being checked at best by devices clumsy and slow. Georgia followed Pennsylvania's example. Throughout the country able agitators had risen to power, promising to cure the manifest evils of the time by democratic legislatures and demagogic nostrums. Chaos and ever-deepening misery dogged their paper money, land banks and unicameral constitutions; but in the popular mind of 1787 they were still in the ascendant—as bicameralism was under a cloud. Though the franchise was strictly limited and intended to disqualify incompetents, probably a majority of voters favored this new democracy.

A still greater obstacle lay in the fact that the existing government under the Articles of Confederation was itself unicameral. Obvious as its failures had been to the soldiers whom it had thwarted and the patriotic merchants whom it had impoverished, its prestige was still great. Had it not hurled defiance at the greatest of civilized

nations, declaring our independence and making that declaration good? Now that the contest was gloriously won, why make of it a new overlord to trample upon liberties so dearly bought? As early as 1783 Washington chafed against this prevailing fallacy and it even cropped out in the Convention.[21] In all human experience, moreover, confederacies had characteristically been governed by mere congresses. From the earliest times, it is true, there had been promise of something better. In the Lycian League of antiquity representation of the component cities was not "equal" but proportioned to their wealth and population, and in the Achæan League there was a senate of a sort; but neither had any historic consequence and little was known of them. Our old Constitution was true to the familiar type—a unicameral council of ambassadors in which large States and small had equal power. The utmost which the Annapolis Convention had dared to plead for was that a convention be called to make the old Articles "adequate to the exigencies of the Union" by "revising" them, and that was all Congress empowered the Convention to do.

In his extreme old age Madison wrote that, at the time of the Convention, "all who speculated upon the prospective change" regarded it "as a matter of course" that in the national Constitution the "distribution" of "departments" should be that which was "usual"—usual, that is, in the State constitutions.[22] This was true of the leaders of the Convention, perhaps true of a majority of the Members. But Madison had forgotten the tribe of Franklin and the prestige of the old Constitution; he had forgotten the New Jersey plan. Nor did he tell the critical truth about the Virginia plan. In this the executive and the judiciary were not really independent, being appointed by Congress and responsible to it. It was thus far more nearly related to the Virginia State Constitution, and to John Adams's *Thoughts* as to stop-gap constitutions in 1776, than to Adams's Massachusetts Constitution of 1780. It was, in fact, an intermediate form between the unicameral Articles of Confederation and the new Constitution as it was framed. But its Congress was bicameral, and in principle at least it observed the historic balance. And the Senate was elected proportionally by the people.

VI

Slow and painful was the process by which the rank and file, even some leaders, rose to the idea that the Union might be governed under an instrument modelled on the stabler of the State constitutions. A course of reasoning was requisite which, when the Convention assembled, the wisest had traversed only in part. The crying need was for a government more *vigorous,* more *energetic.* Since early in the Revolution, the idea, the very words, had occurred constantly. Ostensibly the old Congress of the Articles possessed all powers, legislative, executive and judicial; but in reality it was, in the phrase of the time, *imbecile;* on all important questions, as Washington said, it *frittered back* authority to the constituent State legislatures, any four of which could block measures the most necessary. To vest this Congress with adequate powers seemed simple enough to most minds. One had only to enable it to do such things as lay and levy the much-mooted impost, and in general to free itself from the obstructive power of a small minority of States. That was all the Annapolis Convention dared to suggest, all Congress enabled the Convention to recommend. But, in the minds of the great leaders at Philadelphia, to give the old Congress powers at all adequate to a national union was a remedy worse than the disease.

According to the historic theory, popularized by Montesquieu, to centre adequate powers in a single chamber was to invite the alternative evils of "democracy" and "oligarchy," either of which tended inevitably to "tyranny." It is our modern habit to smile at this theory, but it was receiving confirmation the most obvious at that moment in Pennsylvania—in the very seat of the Convention. A little later, in 1795, experience in the French Revolution converted Tom Paine himself from his unicameralism: reverting to the ideas he had flouted at Philadelphia, he proclaimed that a balanced legislature and an executive and judiciary separate and independent were "the first principles of government."[23] What he saw has been repeated on a vaster scale and still more tragically in Russia. Even in England it has long been a portent. In 1898, Lawrence Lowell noted the rapid strides toward unicameral democracy and predicted that the national genius would develop "a new equilibrium" which would be "as intricate, as nicely adjusted," as the old. What new

balance is possible? In the Convention, Paterson, speaking for the New Jersey plan, adapted an idea of John Adams: in the old Congress, he said, an adjustment sufficiently nice lay in the fact that "the delegations of the different States" acted as "checks on each other." James Wilson retorted that "in a single house there is no check, but the inadequate one, of the virtue & good sense of those who compose it." In modern England, the curious may observe, confidence for the future is chiefly based on "the virtue & good sense" of the Labor Party. As yet, that has been sufficient. "Government by consent" of the two rival parties has enabled His Majesty's business to go on. *Macte virtute!* But beneath the surface of conciliation the old fires smoulder always. The true test of the new English balance can come only when "the many" are able to maintain for two years a majority in Parliament. When that happens, the historic English order, the very Constitution itself, will be subject to their will. The only possible balance in a unicameral government is vertical—like that of a troupe of Japanese jugglers. A false movement either in the group below or the group above, brings the whole down in chaos.

That Washington shared Wilson's idea—saw that the government must be stably balanced if it were to be made sufficiently strong—is clearly implied in his letter to Knox, written four months before the Convention. The old Articles were "objectionable" because "the legislative, executive and judicial departments" were "concentred." It was not possible to make the authority of Congress adequate to the exigencies of the Union without gravely endangering the liberties of the nation. Conversely, the decisive power might safely be intrusted to a national legislature if only the government were balanced horizontally, each department possessing an adequate check on the others. As applied to the national government, the idea was then quite novel—was branded as such in the Convention.

It is true that, as early as 1783, both Hamilton and Pelatiah Webster had proposed to amend the Articles in the direction of a horizontal balance; but we can surmise what the men of 1787 thought of their proposals from the fact that they ignored them. Scarcely less than in the case of the old Congress, the balance would have rested, as Adams put it, between the State delegations in Congress

and their constituents, the State legislatures—a tottering, vertical balance. A government might, however, be really strong, if only, like the governments of the States, it had the stably horizontal balance of orders and interests based, not on local politicians, but upon the people as a whole. It was a familiar see-saw. As one side went down, the other went up. Neither could fall disastrously, and neither could soar except by an impulse from mother earth constantly repeated.

It was not to be denied, however, that a proposal thus drastic meant, not revising the Articles but scrapping them. It was forcibly and truthfully objected that if the State legislatures had been aware of any such intention one and all would have scorned to send delegates. Novel as the idea then was, however, several besides Washington, as we shall see, entertained it. By a curious coincidence it was presented to the Convention on the same day in the Virginia plan and in a plan drawn up by Charles Pinckney of South Carolina.

VII

Though Pinckney was already prominent, he was one of the three youngest men in the Convention; and, finding that his plan was, as he said, "grounded on the same principle" as that championed by the very formidable Virginia delegation, he sensibly forbore to deliver the speech he had prepared and handed over his plan to a committee. It was not preserved among the papers of the Convention. In 1818, at the request of the Secretary of State, John Quincy Adams, Pinckney furnished what he said was a copy of one of several closely similar versions of his plan—whether the one presented to the Convention he could not tell. It proved to be in so many particulars textually identical with the famous report of the Committee of Detail (which was based on the Virginia plan as revised by the Convention, and which was itself eventually developed into the Constitution) that two of the surviving members of the Convention (there were sixteen of them) regarded it as spurious, Madison being especially destructive in criticism. Pinckney was known to be vain and of questionable probity. For decades thereafter he was regarded as having claimed virtual authorship of the great report of the Committee of Detail. The most charitable assumption,

amiably adopted by Madison, was that if the document of 1818 was at all related to his plan as presented in 1787 this was the result of jotting in on it from time to time provisions agreed to by the Convention.

In 1902, Professor J. Franklin Jameson pointed out in a very able study that the articles in the draft of 1818 closely follow the order of the report of the Committee of Detail—a copy of which Pinckney alluded to as still in his possession. Professor Jameson's conclusion seems inevitable—that the Pinckney plan of 1818 consists of the report of the Committee "minus some of its lesser features and plus some of those of his real plan"; that "Pinckney answered Adams's request by sitting down and copying the printed report of the Committee of Detail, paraphrasing to a small extent here and there, and interweaving as he went along some of the best-remembered features of his own plan." But striking revelations were to follow. While writing this, Professor Jameson discovered papers which show that the Committee of Detail derived from the Pinckney plan some twenty provisions that went into the Constitution. He concluded that if the man had made a claim less absurd he would have received more credit for his contributions. In 1904, Professor A. C. McLaughlin discovered other documents from which he deduced that, in all, the lost Pinckney plan "suggested some thirty-one or thirty-two provisions which were finally adopted in the Constitution." On the basis of these studies, Farrand has approximately reconstructed it.

Though impressive in bulk, Pinckney's contributions are mainly matters of detail. The fact is that the Virginia resolutions deliberately confined themselves to basic generalities, leaving the plan to be worked out in committee after being discussed by the Convention. The Pinckney plan, being "grounded on the same principle" and thoroughly worked out, was valuable as suggesting points which had escaped attention.

One fact, largely ignored, goes far toward exonerating Pinckney. In the document of 1818, he inserted very important provisions which differed widely from the Committee draft and the Constitution as adopted. That he was careless and forgetful is probable and that in the handling of historic documents he was reckless is too obvious; but far from pretending authorship of the Committee draft,

he appears to have honestly attempted to present his plan of 1787 in its main outlines. In one respect his memory—perhaps his honesty—failed him. His provision of 1818 that the lower house be chosen "by the people"—as in the Virginia plan and in the Constitution—is contrary to a conviction, forcibly expressed in 1787, that it should be chosen by the State legislatures. But in other important respects the 1818 plan differs from the Committee draft and from the Constitution. And in these it agrees with discarded provisions of the Virginia plan—which, as Pinckney said, was "grounded on the same principle." Thus his senate is to be chosen, not by the State legislatures, but by the lower house; his president is to be chosen, not by an electoral college, but by joint ballot of the two houses—either "from among themselves" or from "the people at large." The bearing of all this has wholly escaped observation. Roger Sherman's idea that the executive should be "absolutely dependent on" the legislature appears in a significantly modified form. Pinckney's legislature is bicameral, and his president and supreme court are distinct and independent, yet there is a far greater blending of powers than we have in the Constitution. The vertical balance is fused with the horizontal. This is also the case in the Virginia plan and indeed in several of the early State constitutions. Pinckney's conception of the cabinet is not fully expressed, but the president's power "to inspect" the various executive departments "when he conceives it necessary" suggests that they were more nearly allied to the senate than to the executive; and this surmise, as we shall see, is borne out by other evidence. To all appearances, the Pinckney plans of both 1787 and 1818 intended a Constitution horizontally balanced yet containing the germs of "responsible parliamentary" government roughly analogous to the modern English plan.[24]

As writer and speaker Pinckney was downright as he was able, and what he said is of interest in view of his general agreement with the great Virginians. The ideas which underlay his plan he expressed in a pamphlet, *Observations, etc.,* which, though published just after the Convention, was doubtless written in the main before he left Charleston, as a speech to introduce his plan. The horizontal balance was to be fundamental. "Where the liberties of the people are to be preserved, and the laws well administered, the executive, legislative and judicial, should ever be separate and distinct

. . . mutually forming a check upon each other." And it was to rest, not on the States as equals, but on the people of the nation as a whole. "Each State ought to have a weight in proportion to its importance; and no State is justly entitled to a greater. A representation is the sign of the reality. . . . In a confederated system, the members ought to contribute according to their abilities, and vote in proportion to their importance." This idea was held with equal fervor by the Virginians. Quite consciously and deliberately, both plans intended a sharp reduction in the power and independence of the States. In introducing the Virginia plan Randolph said that it intended a national government "paramount to the State constitutions." In the *Observations* Pinckney alluded to the analogy between State and national constitutions and said: "The members [States] . . . are to be . . . only suffered to retain the powers necessary to the administration of their State Systems. The idea which has been so long and falsely entertained of each being a sovereign state, must be given up; for it is absurd to suppose that there can be more than one sovereignty within a Government. . . . The United States can have no danger so much to dread, as that of disunion; nor has the Federal Government, when properly formed, anything to fear but from the licentiousness of its members." The Virginia plan stipulated that the legislative powers of Congress shall cover "all cases . . . in which the harmony of the United States shall be interrupted," and it gives the Supreme Court jurisdiction over all such cases. The stipulation is as vague as it is broad; but, as Charles Warren says, the intention appears to have been to leave the precise definition of the powers of Congress and Court to the Committee of Detail. Pinckney, in a phrase admirably precise, gives the Supreme Court jurisdiction over "any of the regulations of Congress in pursuance of their powers," and these powers he makes as broad and as specific as those granted by the Constitution.[25]

Under such a constitution, the States would retain authority in matters purely local, matters of no vital concern to the nation as a whole. But, as against the general government, each would have powers analogous to those wielded within itself by its component counties. Only so could the government be made at once energetic and stably republican. That is the dominant idea of the Constitutional Convention, first formally developed before it in the plan

framed by Washington and his colleagues. The equality of States in the Senate and the failure to declare explicitly against State sovereignty were concessions to selfish ignorance, precisely of a piece with the particularism that had brought ruin under the Confederation. Though the Virginia plan purported only to "correct and enlarge" the Articles, it was intended to destroy "the darling sovereignties" of the States and set up a constitution which, in the strict sense of the words, was to be not federal but national. This would have been an innovation as salutary as the territorial Senate was objectionable; and in so far as it has been effected, its influence on subsequent federations, European and American, has been of far greater importance. In this sense, Gladstone was right: the Constitution was struck off at a given time and with thoroughly conscious purpose, that of making a national constitution which should be a State constitution "writ large."

Pinckney's plan having been committed, and his speech pocketed, it is not until the Convention was well under way that we find reference to an analogy with the State constitutions. In the second month Madison said that many "powers" which the Virginia plan called for would "assimilate the national government to the Govt. of individual States," and later he used the State constitutions as examples.[26] After the Convention, this idea appears more frequently. In *The Federalist,* both Hamilton and Madison often defend the new Constitution with precedents drawn from the States. Madison declares that their constitutions had "no model on the face of the globe"—at once praising their originality and, apparently, seeking to excuse such defects as might be found in the Constitution of the Union on the ground of the common novelty.[27] To that extent, at least, he was of the same mind as Gladstone.

VIII

Very curious are the misconceptions of the Virginia plan which have pervaded our own constitutional thinking. John Fiske echoes Freeman's idea and blends with it an idea which, though repeated by writers of the highest authority down to the present, is equally questionable. "The great mind of Madison was one of the first to entertain distinctly the noble conception of two kinds of government operating at one and the same time upon the same individuals, har-

monious with each other, but each supreme in its own sphere. Such is the fundamental conception of our partly federal, partly national, government, which appears throughout the Virginia plan as well as in the Constitution which grew out of it. It was a political conception of a higher order than had ever been entertained."[28] Scarcely a phrase in that glowing tribute will bear an acid test.

In only one matter did the Virginia plan respect the federal as distinguished from the national idea, and in that it had no choice. The Convention represented the States as such, and it followed that the Constitution could only be adopted by them—as provided by Resolution 15. Even so, the basic authority was to be not the State legislatures but the people of the States—of the *United* States. In all that was dearest to them, the darling sovereignties of the States were quietly annulled. Members of the lower house were to be elected, not as of old by the State legislatures, but directly by the people. A "refined" or "filtered" senate was provided by having it elected by the lower house from among candidates nominated by the State legislatures. On assuming national office, members of both houses were to divorce themselves from all authority of their States as such. Neither house was to represent the States as equal units: representation in both was to be proportioned to "the wealth or numbers" of the States, so that the various interests of the nation as a whole would be equitably represented.

One result of this fact that the "political conception" of the Constitution departed from the Virginia (and the Pinckney) plan was a certain ambiguity with regard to secession. The particularist Yates records Randolph as saying that the Virginia plan intended "a strong *consolidated* union, in which the idea of the States should be nearly annihilated." It specifically provides, in fact, for armed coercion against rebel States. Yates's underscoring of the hated word reflects vividly a reaction that was ancient, wide-spread and enduring. The old Articles had been denominated "articles of confederation and *perpetual* union"; but, as Story points out, they conferred upon Congress in times of peace only "a delusive and shadowy sovereignty," Pinckney's plan, in the form in which it was used by the Committee of Detail, provided that "the Union shall be *perpetual*."[29] In the Committee draft as in the Constitution, this generalized assertion was replaced by detailed prohibitions as to the conduct of

the States which aimed—covertly, as it seems—at the same effect. Constructively, secession is forbidden,[30] but only constructively. Certainly Randolph, having expressed the intention of the Virginians, became suddenly circumspect. So far as the Records show, no one ventured to describe the Virginia plan succinctly as an application to the national government of the principle of the State constitutions. The question whether the union was indeed "consolidated" remained to be settled by the Civil War.

As to particularist liberties in general, the Convention as a whole appears to have felt, as did Washington, that they were sufficiently safeguarded by the separation and balance of powers—the horizontal balance. That they are so, many or most of us would agree. In the Convention, there was considerable beating about the bush. On the day after Randolph introduced the Virginia plan, Pinckney tried to draw him out, but Randolph evaded—being, as his cousin John of Roanoake said, of the nature of the chameleon and the aspen, "always trembling, always changing." Pierce Butler of the South Carolina delegation took up the question, doubtless inspired by Pinckney. His statement was so involved that Madison despaired of recording him clearly; but he concluded by saying that, though "he had opposed the grant of powers to Congs. heretofore because the whole power was vested in one body," the proposed "distribution of powers into different bodies changed the case and would induce him to go great lengths." Two weeks later, Randolph plucked up courage to say the same. The concentration of all powers in the old unicameral Congress, he then remarked, had been "safe" only because of "the general impotency of that body"; the balance being granted, he "was not scrupulous on the point of power."[31]

This crucial idea was often repeated, and with increasing confidence. George Mason linked the old Congress with the discredited constitution of Pennsylvania as characteristic examples of the single chamber and declared that the prevailing American preference for the separation and balance of powers "must either have been a miracle, or have resulted from the genius of the people." In the New York ratifying convention Hamilton developed the idea with his customary trenchancy. Only powers strictly limited could be safely intrusted to the old Congress. "Will any man, who entertains a wish for the safety of his country, trust the sword and the

purse with a single assembly organized on principles so rotten? . . . To give them the full and unlimited powers of taxation and the national [military and naval] forces, would be to establish a despotism; the definition of which is a government in which all powers are concentred in a single body. . . . These considerations show that a government totally different must be instituted. They had great weight in the Convention."[32] So soon as an equality of States in the Senate had been balanced against an equality of citizens in the House, placating the small States, these considerations had a weight so great that the Convention acceded to them with very little discussion and without the dissent of a single State, even Franklin's preference for a single chamber failing to move the Pennsylvania delegation.[33] The strength of our National union was predicated on a separation and balance of powers; but to achieve it the Virginians had to make obeisance to the spectre of State sovereignty. That is the truth of the situation which Fiske so plausibly glosses.

In the thirty-ninth number of *The Federalist* Madison discusses the relative importance of the two elements, federal and national, a discussion which reveals strikingly the analytic and expository power of his mind. He stresses as federal the process of establishing and amending the Constitution, and also the territorial Senate—with regard to neither of which had the Convention a free choice. Otherwise, the federal idea persisted mainly in the manner of choosing the President, in which the national and federal elements are "very compound," and in the "residual and inviolable sovereignty" of the States in matters purely "local or municipal." As to any other inviolable State sovereignty Madison, who was destined to be sponsor of the Kentucky and Virginia resolutions, is silent as the Constitution. Our subsequent abandonment of the indirect or "refined" process of electing Senators would have seemed to the leaders of the Convention a sad mistake; but many of the ablest among them would have applauded the triumph of the national over the federal principle in presidential elections.

The residual sovereignty of the States resulted from a condition rather than from a theory. It took no supernal wisdom to spare going concerns so determined to keep going. Far from pluming themselves upon what Fiske calls "a higher order of political concep-

tion than the world had known," the wiser among them foresaw that Aaron's rod must eventually swallow the rods of the magicians, even though the result was an indigestion the most painful. As for "the noble conception" of two harmonious authorities "operating at one and the same time upon the same individuals," any member of the Convention who had paid both local and State taxes could only say *tush* to John Fiske and might have said *pish*.

IX

That a national government acting directly upon individuals wields sufficient authority as against the individual States is quite obvious to-day; but it was far from being so to the Fathers. The possibility of such a thing rests, fundamentally, not so much upon the national use of physical force as upon popular respect for national law. The Constitution, and the courts that interpret it, must be enshrined in the hearts of the people above both State and national legislatures. This idea appears to have occurred to very few of the Convention, was never explicitly and comprehensively advocated, and was not actually made real in its full extent until the day of John Marshall. The fact is more remarkable as the ascendancy of a supreme court above the legislature was provided for in several State constitutions and, even as the Convention deliberated, was being actually asserted.

The truth seems to be that the power of the States was so great a bogey that most of the Fathers regarded a conflict with it as inevitable. Charles Warren echoes Fiske to the extent of saying that the operation on individuals was "implied" by the "omission" of any other provision,[34] but such evidence is at best negative. The Virginia plan shows no just perception of the legal authority of Constitution and Supreme Court, being if anything blinder in this respect than the Pinckney plan. In both, the specific proposal is to handle an inevitable conflict by direct action of Congress against the States, as such—the nearest way to civil war. Article 6 of the Virginia plan provides that when, in the bare "opinion of the National Legislature," any State law contravenes "the articles of Union" —that is, the new Constitution—the National Legislature may "negative" the law and "call forth the force of the Union" to make good its negative. It can use armed coercion even against any act of

the State by which "the harmony of the United States may be interrupted."

In Madison's extreme old age, probably within a year of his death in 1836, he made a claim to priority in several matters—upon which Fiske doubtless based his eulogy. "A sketch," Madison wrote, "the earliest perhaps on paper, of a Constitutional government for the Union (organized into the regular departments with physical means operating on individuals) *to be sanctioned by the people of the States,* acting in their original and sovereign character, was contained in a letter of April 8, 1787, from James Madison to Governor Randolph." It is only fair to Madison to say that his attention seems to have been centred upon the idea which he italicized. But even there Washington had anticipated him by four years. In 1783, in a letter from Newburgh to Doctor Gordon, he briefly outlined a more "energetic" national government, the energy of which was to be "given to it by a Convention of the People." [35] As to national power acting upon individuals, Hamilton has a prior claim, though a shadowy one. As early as 1782, he had boldly insisted that Congress should not only lay the five per cent impost but collect it over the heads of the States. In this Madison had stood courageously with him, though he not unnaturally refused to go the whole length of Hamilton's doctrine of implied powers, very questionable as applied to the old Constitution. In Hamilton's plan of 1783 for the "revisal and amendment" of the Articles—which remained the most sane and comprehensive plan for scrapping them until the Virginia plan—he proposed to withhold from the States "all control over either the imposition or the collection of the taxes." His filial biographer points out and italicizes that these proposals of 1782 and 1783 meant a power "to collect the revenue from *individuals";* but Hamilton does not use the word, much less generalize the idea—which he applies only to the five per cent impost. The same is true of Madison's letter of four years later to Randolph. He describes his "system" negatively and vaguely as intended to operate "without the intervention of the States." [36]

The truth seems to be that in grasping the importance of the part to be played by national laws the mind of Madison was peculiarly backward. That it was a truly great mind cannot be questioned—fully abreast of the best thought of his time in most respects, and in

some far in advance of it. But as evidence of his priority in conceiving the Constitution as we know it nothing could be more unfortunate than his attitude toward the Supreme Court. Thus he doggedly insisted, and the Virginia plan provided, that "the National Judiciary ought" to have part in "a council of revision with authority to examine every act of the National Legislature before it shall operate" and that "the dissent of the said Council shall amount to a rejection *unless the act . . . shall be again passed.*" (My italics.) If he had prevailed, the Supreme Court, having either collaborated with Congress or been defeated in a contest with it, would have found, when it came to passing upon the constitutionality of an act, that its reputation for impartiality stood to be compromised, and with it its authority. The World Court of to-day has, and frequently exercises, a similar function of rendering "advisory opinions." Its power in this respect being distinctly less and its general situation being radically different, the result has not been bad—in some instances notably fortunate; but the device has been vigorously and implacably opposed by the foremost American jurists—who, as it happens, believe most strongly in both League and Court; and it has been an important factor in keeping us out of both. In the Constitutional Convention Madison advocated such advisory opinions four several times and defended them to the last ditch; and long after it he was firmly convinced as ever.

One reason why he favored this use of the Supreme Court was that he had at best a very limited idea of its authority. Under the influence of fellow members who thought of it as we do, he admitted that "a law violating the Constitution" would be "null and void." [37] But though his nature was pliant, his mind was firm; a year later it had resumed its bent. With regard to a proposed State constitution he wrote: "No provision is made for a disagreement in expounding them [legislative acts]; and as the Courts are generally the last in making ye decision, it results to them by refusing or not refusing to execute a law, to stamp it with its final character. This makes the Judiciary Department paramount in fact to the Legislature, which was never intended and can never be proper." [38] The same conflict between pliancy of will and firmness of mind on this subject is traceable in later years, when his friend and fellow partisan, Jefferson, was embroiled with the Supreme Court. They

did not see, or they refused to see, that the power of review made the judiciary paramount only as to the meaning of the Constitution, giving no positive power of legislation, or that to make a legislative act final and supreme was to give Congress a power similar to that by which the House of Commons transforms the English Constitution at will.

In grasping the importance of the fact that the judicial authority would act upon individuals his mind was only a little less slow. Like the Convention at Hartford and Pelatiah Webster, he was obsessed with the idea of a combat with the States. In October, 1785, he had written to Jefferson: "The use of coercion, or such provision as would render the use of it unnecessary, might be made at little expense and [with] perfect safety. A single frigate under the orders of Congress could make it to the interest of any one of the Atlantic States to pay its just quota. With regard to such of the Ultramontane States as depend on the trade of the Mississippi, as small a force would have the same effect."[39] During the two years before the Convention, he recurs constantly to this theme.

In the letter to Randolph which he cited in his old age, he does not mention coercion, as if tactfully aware of his correspondent's weak-kneed disposition. That he still believed in it is evident in a letter to Washington of a few days later—shortly before the Convention. With his customary tact and deference, it is true, he gives recognition to a set of ideas that had long been agitated, especially by Washington. "The national government should be armed with a positive and compleat authority in all cases which require uniformity; such as the regulation of trade, including the right of taxing." And presently he recognizes an idea which Washington appears to have harbored tacitly and which was destined to have great consequences in the Convention—"the difficulty and awkwardness of operating by force on the collective will of a State." But he says all this by way of insisting on the necessity of coercion "either by sea or by land." This, he says, would be rendered possible "by the resources of Commerce."

Congress was to wield not only armed force but supreme authority over State legislation. "Above this positive power," Madison writes, it should have "a negative *in all cases whatsoever* on the legislative acts of the States"; that is "absolutely necessary." The

italics are his own. This measure was suggested, he says, by the old power of the British Crown to negative acts of the colonial legislatures; and, as if forgetting the late Revolution, he speaks of it as a pacific measure—"the least possible encroachment on the State jurisdictions." Hamilton also brought this idea into the Convention, and in a form no more promising. He proposed that the negative on State laws be wielded by Governors of the States, who were not to be elected by the people of the State but appointed by "the General Government."[40] In 1835, Madison, having made his broad claim of priority, proceeded at once, and with exemplary candor, to admit that his idea of a negative by Congress on State laws was "finally and justly abandoned."[41]

The first statement at once philosophic and concrete as to the way in which national powers should operate, so far as the records show, came from Washington's lifelong friend and neighbor at Mount Vernon, George Mason. On the second day of the discussion of the Virginia plan, shortly after Pierce Butler's illumination as to the relationship between the horizontal balance and the energy of a constitution, "Mr. Mason observed that the present confederation was not only deficient in not providing for coercion and punishment against delinquent States, but argued very cogently that punishment could not in the nature of things be executed on the States collectively [that is, upon a single State in its collective capacity], and therefore that such a government was necessary as could directly operate on individuals, and would punish only those whose guilt required it."[42] This phrase had not before been used, so far as I can find, in or out of the Convention. A part of the persuasiveness of Mason's statement lies in the fact that it dwells not so much upon the energy as upon the justice and humanity of the process—its feasibility. That the idea was new to Madison is forcibly suggested by his praise of Mason's *cogency*—a thing very unusual in his bare records.

This suggestion is reinforced by remarks Madison made on the following day, which stress the phrase and develop the idea with his extraordinary comprehensiveness and lucidity. The italics are inserted. "Mr. Madison observed that *the more he reflected* on the use of force, the more he doubted the practicability, the justice and the efficiency of it when applied to the people collectively and not *indi-*

vidually.. A Union of the States containing such an ingredient seemed to provide for its own destruction. The use of force against a State, would look more like a declaration of war than an infliction of punishment, and would probably be *considered by the party attacked as a dissolution of all previous compacts* by which it might be bound. He hoped that such a system might be framed as might render this recourse unnecessary." So much for his "single frigate" and his pre-Revolutionary precedent of a veto by the national legislature! An idea which he had harbored for years and which he had doubtless favored inserting in the Virginia plan, was completely reversed over night, as it seems—certainly within two days.

Thereafter the new conception was frequently expressed by advocates of strong national control. In reply to the statement that the new government was to be "partly federal, partly national," Madison "called for a single instance in which the General government was not to act on the people individually."[43] In *The Federalist,* Hamilton threw the idea into staring capitals. Drastic acts of Congress, even military coercion, lie always in reserve; but, thanks to the defeat of Madison's ideas, it remained for the Civil War to show the danger of employing them.

X

That Washington had thought out and generalized the efficacy of laws acting upon individuals, as Madison and Hamilton proceeded to do, few will contend who are acquainted with the processes of his mind, habitually instinctive rather than cerebral, reticent rather than argumentative. Yet the concrete fact was already evident in the governments of the States and, as such, was well within his grasp. Unreserved as had been his approval of the separation and balance of powers proposed by Knox, and deep as was his sense of the need of national authority, he had time and again met proposals of a congressional negative on State laws and of the use of armed force against a State with marked reserve, impenetrable silence. Writing to Madison two months before the Convention, he freely granted, even dwelt upon, the need of "coercion"; yet to Madison's specific proposals he replied only this: "But what kind of coercion, you may ask. This indeed will require thought."[44] Intellectually he was both modest and slow, but his instinct was powerful and sure. Just

how his "thought" would have developed if he had been admonishing young Bushrod instead of conferring with one of the ablest and most learned constitutionalists in America we can only surmise. In addressing another correspondent, whose mind was as able as Madison's but less firmly fixed on this subject, he allowed himself more latitude. Ten weeks before the Convention he wrote to John Jay: "I do not conceive we can exist long as a nation without having lodged somewhere a power, which will pervade the whole Union in as energetic a manner as the authority of the State governments extends over the several States." *Pervade* is an interesting word, and he uses it several times in this connection.[45] Was the means of pervasion of which he was thinking, the judicial and police power acting directly upon individuals? That, certainly, was the means employed so effectually in the several States. If the thought had already risen to his conscious mind, we need not look farther for the source of his neighbor Mason's observation, so cogent and illuminating.

That in writing to Jay he was quite consciously thinking of a national government similar to those of the several States is obvious. It is something more than that in a letter written at Newburgh two years before Noah Webster's *Sketch* and four years before the Virginia and the Pinckney plans—the earliest expression of this idea I have found, and by far the most comprehensive. It is in his letter of 1783 to Doctor Gordon, in which he insisted also that the Constitution should derive its energy from a convention of the people.

> We are known by no other character among nations than as the United States—Massachusetts or Virginia is no better defined, nor any more thought of, by Foreign Powers than the County of Worcester in Massachusetts is by Virginia, or Gloucester County in Virginia is by Massachusetts (respectable as they are); and yet these counties with as much propriety might oppose themselves to the Laws of the State in which they are, as an individual State can oppose itself to the Federal Government, by which it is, or ought to be bound. Each of these counties has, no doubt, its local polity and interests. These should be attended to, and brought before their respective legislatures with all the force their importance merits; but when they come in contact with the general interest of the State, when superior considerations preponderate in favor of the whole, their voices should be heard no more. So should it be with individual States when compared to the Union.[46]

Yet, wisely moderate always, he reiterated that the States should retain all proper functions: "I am no advocate for their [the general

government] having to do with the particular policy of any State, further than it concerns the Union at large."

So early and so comprehensive a statement of the idea, together with his known influence at this time over Randolph and Madison, make it all but certain that to Washington primarily is due the basic conception of the Virginia plan. It is not a learned, a philosophic statement; but could anything be more homely and graphic, more compact and complete? The spreading oak is not more neatly contained in its parent acorn—nor the United States Senate in Jefferson's saucer. If historians had perceived that this is the conception "which appears throughout the Virginia plan," many a penful of ink would have remained unshed. If "the Constitution which grew out of it" had not been engrafted with alien ideas, many lost strains of the best American blood would have enriched our present and all our future.

As to Washington's influence in the Convention, the glimpses we have are few; but they are enough to show that he presided—as he commanded an army or managed his plantation—with dignity, affable kindness and, when need was, with just austerity. Once when a member was so careless as to drop on the floor a copy of the "great leading principles for the new government"—probably the Virginia plan—he waited till the close of the session and then reminded the Convention of the duty of secrecy, of the danger of "premature speculations" in the newspapers. Thereupon "he bowed, picked up his Hat, and quitted the room with a dignity so severe that every Person seemed alarmed." William Pierce, who tells the story, found that his own copy was missing from his pocket. His "fears" were not "dissipated" until, going to the table, he found that the copy was in the handwriting of another. Only once, as we have seen, is there record of Washington's proposing a specific measure. His prestige was so great that discussion could scarcely have been untrammelled; and none knew better than he that, at best, argument tends rather to fix objection than to remove it. And in that assembly of forensic masters he must have felt especially that he was at a disadvantage. Yet in general his ideas were well known—much better than to us, who have only the scattered records left by the wreckage of time. And he doubtless knew that opinion is oftener the product of personality than of reason. The chances are that his queer combination

of modest reticence and commanding authority had an effect quite as great as that of the most subtle intelligence and forensic brilliance.

Few things are more tedious and profitless than partisan claims and counterclaims of priority, and especially where progress has resulted from the able and generous co-operation of a group of men. Yet it is a matter of some biographic importance to establish Washington's position in this group. Thus much seems clear. As he himself said, few men could have a sense of the need of a new constitution so deeply grounded in experience. Since 1776, indeed since 1753, his mind had been at work on the problem of a republic united and powerful. Beneath his silence and his hesitations, moreover, he had a sense remarkably lucid and specific of what was possible and desirable. More clear-visioned and unswerving than Madison, he was, in his simple way, as original as Hamilton; and he was infinitely more sound than either. Not only by virtue of titular leadership but morally and indeed mentally he was king-pin of the Federalist System as embodied in the Constitution.

CHAPTER XV

ECONOMIC DETERMINISM IN THE REPUBLIC

I

The reverence which Americans feel for their Constitution, and for the men who framed it, has been suggestively likened to that which the English feel for the Royal Family. In intensity the two sentiments may be similar, but there is reason to believe that our reverence surpasses the English in blindness. When Mr. H. G. Wells exercises his satiric gift upon King George and his Consort, the facts of the matter are known to, and acknowledged by, his fellow citizens—who laugh and shrug their shoulders. Not so when American radicals assail the Constitution, as they have done increasingly of late. We are so far from a sense of the ludicrous that, instead of sifting the charges, we go right on putting up prizes to encourage highschool pupils who expound the ideas of the Fathers. The situation is worth inquiring into. In no other way can one come so immediately to grips with a basic contradiction between the elder and the modern political thought—or, at least, modern political conviction.

"The 'noble coterie of men of 1787,'" writes Simeon Strunsky in the New York *Times,* satirically quoting the phrase from an opponent who admires the Fathers, "was heavily diluted with politicians, merchant princes, landlords, land speculators, paper-money speculators, and ex-army contractors." Lest there be any doubt as to the motives of such as these, he adds: "The dominant idea in the business of Constitution-making was to keep as much as possible of the liberty that had been won from King George out of the hands of the American people." This was in *The Times Book Review;*[1] but the same idea occurs now and again in the editorial columns, so generally thought to be conservative—though the phrasing is appropriately less graphic and amusing. In journals more joyously radical, the charge abounds.

II

Let us begin with an error that may seem to be minor, a matter of chronology. According to Mr. Strunsky, it is only the present generation that has thus "roughly handled" the Fathers—their "great-great-grandchildren." The reference is doubtless to Professor Beard and his *Economic Interpretation of the Constitution,* a work formidable in research, admirably restrained for the most part in presentation, and widely acclaimed by Socialists who regard economic determinism as high, low and Jack of their game. Surely this attack on the Fathers cannot have preceded Karl Marx! But listen to the voice of a mere grandchild. Writing as long ago as 1856, Charles Francis Adams said much the same, though a seemingly trivial difference in statement may be found to mask a vast difference in intention and effect.

> The Federal convention was the work of the commercial people in the seaport towns, of the planters of the slave-holding States, of the officers of the revolutionary army, and the property holders everywhere. And these parties could never have been strong enough of themselves to procure the general adoption of the instrument which they matured, had it not been that the open insurrection in Massachusetts, and the assemblages threatening to shut up the courts of justice in other States, had thrown the intermediate body of quiet citizens of every shade of opinion, in panic, all on their side. . . . It was the upheaving of the poorer classes to throw off all law of debtor and creditor, which brought about the successful effort to organize the federal government anew, as a bridle upon their license. They never favored it beforehand, nor cordially approved it afterwards, during their day and generation. . . . That among the opponents of the constitution are to be ranked a great majority of those who had most strenuously fought the battle of independence of Great Britain, is certain.[2]

This is mere statement of facts easily verified, though ignored by those who incite our high-scholarly exponents of the Constitution.

Far more "rough-handed" than any grandchild or child were the very contemporaries of the Fathers. In the Convention itself, Mercer of Maryland voiced the charge that the intention was to substitute an American "aristocracy" in place of the British tyranny which had been overthrown. "The public measures [which the Convention intended] are calculated for the benefit of the governors, not of the people. The people are dissatisfied and complain. They change their rulers [from King to Constitution] . . . but it is only a change

of one scheme of emolument to the rulers for another."[3] Luther Martin and others declared that the intention was to reduce the American people to "abject slavery." In the first year under the Constitution, Senator Maclay called it "the vilest of all traps that was ever set to ensnare the freedom of an unsuspecting people."[4] The reputed Father of the Constitution himself, after his apostasy from Washington, took up the cry against the "Despotism" which his old associates were exercising under the Constitution and objected to publishing his records of the Convention for fear that they might afford data to justify the Federalists.[5] In this cry of despotism, of course, Madison was echoing Jefferson. Ever since the Constitution was framed, in short, there have been the two radically contradictory views of it.

The amazing fact, however, is that these contradictory opinions have so often been held by one and the same statesman, as if in watertight compartments. Jefferson hailed the Convention as "an assembly of demigods" and always professed the utmost loyalty to the Constitution as written. Madison was equally fervent, and, at the end of his life, declared that never in the world had there been an assembly as important as the Convention of 1787 which was "collectively and individually . . . more pure in their motives, or more exclusively and anxiously devoted to" their trust.[6] Ever since, rough-handed controversy has sustained itself upon a certain confusion of thought. *The Times* itself is nourished by, and has expressed with equal spirit, a high enthusiasm for the Constitution and the American system of government in general, being not quite an intransigent in Bolshevism. A horrid suspicion arises that it has been bamboozled—perhaps has bamboozled itself.

For the high priest of this cult of great-great-grandchildren is a historian sober, able and laboriously candid who, as eventually appeared, stood aghast at the extravagance of his proselytes. It may be true that Professor Beard has, or has had, socialistic leanings. Certainly he is possessed by the idea of economic determinism which bulks so large in the thought of Karl Marx and his followers. But the net result of his vast assemblage of economic data falls far short of the drastic indictment of Senator Maclay and the New York *Times,* adding nothing of material import to the sober statement of Charles Francis Adams, nothing that really belies the enthusiastic

verdict which Jefferson and Madison rendered in moments free from partisan bitterness.

III

Professor Beard does not contend that the Convention or any one in it intended a despotism, or even an aristocracy. Nor does he declare that any were false to the cause of liberty either as they themselves conceived it or as it is generally conceived to-day. As to his conclusions with regard to the "Corrupt Squadron" of Anti-Federalist invective it is more difficult to make a statement clear to the modern mind. Very few of us would hesitate to condemn, and bitterly, the carpetbagging speculators who outraced the news of Hamilton's plans for financial betterment and bought up paper for a few cents on the dollar, enriching themselves at the expense of impoverished wretches in the back country who had given all to the Revolution. But of this loathsome gentry he does not find a single representative in the Convention. As to members who bought government paper in the open markets of New York and Philadelphia and Boston, the records are fragmentary at best; but in all likelihood several did so—including Elbridge Gerry, whose sensibilities were so shocked by the Constitution that he refused to be a Signer. Whether such speculation is reprehensible or whether it is legitimate, even laudable as helping to stabilize the nation's finances, is at worst a matter of opinion. Mr. Beard does not concern himself with it. Of the members of the first Congress he finds that a very considerable number used their advance information to enrich themselves—as was generally known at the time. Not many of us will hesitate to condemn them as unstatesmanlike and ungentlemanly. A few of these had been minor members of the Convention, notably Jonathan Dayton who later became Speaker of the House and who begged that the letter in which his financial conduct is revealed be burned. To that extent, one must admit, the eulogies of Jefferson and Madison require to be qualified—though even here Mr. Beard abstains from judgment. That any member of the Convention was an ex-army contractor does not appear—unless Washington, who had advanced money at times to feed and clothe his wretched soldiers and was tardily repaid in depreciating paper.

Unlike his proselytes, in fact, Mr. Beard abstains as rigorously

from blame of the Fathers as from praise of them. Except for its brief "Conclusions," his book is a collection of data, as candid as it is laborious, purporting merely to illustrate economic determinism. Between the lines one may gather that the financial conduct of all leading Federalists—Washington, Madison, Hamilton, and the rest—was singularly pure. The same, we know, is true of Adams, who was not a member of the Convention. Washington was a great landowner and Madison speculated in land to the extent of his resources; but, though Beard does not raise the question, there cannot be the slightest doubt that the ventures of both were in line with the national need of capital and of superintendence to develop the nation's folkland. The conduct of the many holders of Revolutionary paper in the Convention was unmistakably honorable. Their acceptance of it in exchange for goods or service, and the fair purchase of it at prevailing prices, was precisely of a piece with the support which our own generation gave to Liberty Bonds—except that it involved infinitely greater risks and losses. Washington, as Beard records, accepted depreciated paper, worth at times only two or three shillings on the pound, to the extent of "nigh £10,000," as a result of which, when he attended the Convention, he had been unable for two years to pay his taxes.[7]

That Beard so largely left his facts to speak for themselves argues no lack of candor—at worst a lack of tact. In a later volume, he felt obliged to clear himself, and discomfit his followers, by admitting that the men in the Convention who held paper money "belonged to that large class of *bona-fide* creditors of the United States who had a moral right to expect full payment at the hands of the government" they were erecting.[8] By and large one may say to him, as Holmes said to another tactless iterator:

> "Thou say'st an undisputed thing
> In such a solemn way."

Only in Beard's "Conclusions" is there material for remonstrance. The Constitution, as he sums it up, "was essentially an economic document based upon the concept that fundamental private rights of property are anterior to government and morally beyond the reach of popular majorities." In common parlance the Constitution looked to a continuance of the traditional capitalist state as distin-

guished from that form of socialist state in which the nation's wealth is communistically owned and "private rights of property" are subject to the will of the majority. For once the sense of the katydid is ambushed in verbiage. Especially in the nature of camouflage are those words "morally" and "essentially." Neither means *absolutely*. If anterior property rights are inviolable under the Constitution, how have we come by an income tax? The fact is that our Government is not "morally" anything—nor yet absolutely. By a three-quarters vote of the States it may quite legitimately become either communistic or monarchic.

IV

That the Convention was influenced by economic motives is obvious, but that the instrument it framed was absolutely or even essentially an economic document is very far from being so. It was influenced as consciously and determinedly by motives social and political. The genius of its thought was republican, which is to say that it was compounded of many simples. Time was when history as written was "determined" by battles. Then came politics and peoples, then constitutions, then economics. Of late Mr. J. H. Denison has stressed the psychologic element in world progress in a profoundly original study, *Emotion as the Basis of Civilization*—without, however, denying other bases. Meantime, fortunately, there are those who perceive that history is not a solid edifice with a single base but a confluence of many shifting streams of thought and impulse.

If Mr. Beard had extended the labors of his candor to as searching a study of the social and political purpose of the Fathers, he might have spared himself the embarrassment of finding in his train convinced capitalists. For, to make a clean breast of it, *The Times* is not Bolshevist at all. He would have found, however—a fact perhaps equally embarrassing—that economic determinism was first fully comprehended not by Karl Marx but by a Cromwellian Englishman, James Harrington. In Harrington's mind it became the basis of a political and constitutional theory the direct opposite of pure democracy—which, as Mr. Beard knows well, is the half-way house to socialism; and that theory, matured by time, was basic in the American constitutions, State and national.

Like Marx and his followers, Harrington and the Federalists believed that "dominion" or political power depends on the possession of property. But though the two schools are alike economic determinists, they differ in everything else. In the Marxian theory, all men are created equal; and, in order to keep them democratically so, all property must be equally or communistically held. To Harrington and the Federalists, democratic equality was the very negation of the thing they cared for. The only equality they believed in was equality of opportunity—the true name of which is freedom. For, where men are really free they develop vast inequalities of property, vast inequalities of ability and virtue; and freedom is chiefly of value in order that they may do so. The economic determinism of the Republic has its be-all and end-all in liberty.

In one sense the determinism of the Fathers surpassed that of the Marxians. Denying that men are created equal, that the voice of the people is the voice of God, they insisted that before heads should be counted they should be weighed and approved in the economic scale—by means of property qualifications. Here their economic determinism merged with considerations political and even social. Property was held to be, not "above persons" as the democratic liberals are fond of putting it, but rather the means by which persons were to rise to their full political and social stature. In brief, men of property *and* virtue were to emerge as leaders. Socialism also, to be sure, intends that the wise and good shall lead. But it does not condition leadership upon a man's power to develop and manifest himself; it conditions it upon the favor of democratically chosen administrators. On several grounds there is much to be said for bureaucracy—as eliminating the waste and suffering of competitive strife and as substituting trained efficiency for the clash of forces too often blind. One modern development is clearly in that direction. Such agencies as the Interstate Commerce Commission, the Federal Trade Commission and the Federal Reserve Board have become a permanent part of our Government—a part of our already extensive and rapidly growing Unwritten Constitution. But if we value collective control—as we must, however tardily and grudgingly—it is because we have found it indispensable to the higher developments of individual and collective liberty, to the realization of our personal and national opportunities.[9]

That wisdom and virtue do not always accompany property the Fathers knew well. At best there must be a clash of rival interests. Here again they were economic determinists. Since the original and the ultimate power in a republican state resides in the people, it is essential that not only the ultimate political power but also the ultimate property power shall rest with "the many." Abundance of land and a teeming population seemed to insure that it would do so. To Socialists, no doubt, that belief seems naïvely utopian. In the era of their rise to prominence, the onslaught of the Industrial Revolution, there was a tragic tendency toward the concentration of wealth in the hands of a few. Yet the Republic has firmly withstood the test of a century and more of changes the most inflammatory, and there is still hope that the "balance of interests" will remain true in our governmental structure—that even corporate industrial property will find a distribution approximately corresponding to individual desert. It is thoroughly in accord with the economic determinism of our Republic that labor shall be well paid and laborers become stockholders and voters in the corporations they serve.

In a companion volume Mr. Beard has marshalled evidence that Jeffersonian democracy likewise was a product of economic determinism. The forces of commercial and industrial wealth found themselves opposed by the combined forces of agriculture and of industrial wage-earners. Again his demonstration is complete—and again he refrains from bringing his able and extensive researches to bear upon social and political influences. It may be remarked that he had no such intention, and that is true. Yet in neither book does he hesitate to render judgment from the point of view of, and in the terms of, equalitarian—which is to say socialistic—doctrine. The same is true, though in varying degrees, of many or all of the most brilliant recent historians and publicists—of Truslow Adams and Vernon Parrington and Claude Bowers and Rupert Hughes and Simeon Strunsky.

In this statement no question of political or social theory is involved—only of critical method. The Constitution was quite consciously erected as a bulwark against the equalitarian and communistic propaganda of the time, the Bible of which was the Declaration of Independence. What it intended was to establish liberty as opposed to equality, an organic balance of orders and interests as op-

posed to atomistic democracy—in short, a republic. Though the two programmes were radically different, the end sought was the same, to protect popular liberties. Yet sublimely ignoring that the Constitution was deliberately levelled against the most popular and applauded idea in the Declaration, equalitarians from Maclay to Beard have rendered judgment upon it in the light of precisely that idea. The Constitution may be wrong and the Declaration right; but, to prove it so, critical responsibility, to say nothing of common sportsmanship, demands that it shall be viewed first of all from the point of view of the men who made it.

Of all the attitudes in which the hundred-percent American appeals to the comic spirit, the most engaging is that in which he holds up the Declaration of Independence in one hand and the Constitution of the United States in the other, splitting his loyalty fifty-fifty. In *Jefferson and Hamilton* Mr. Bowers writes, as a final burst of eloquence: "The spirits of Jefferson and Hamilton still stalk the ways of men—still fighting." It is not so. The antagonists in that Kilkenny combat of spirits are the Declaration and the Constitution.

V

For a century and a quarter Americans have divided themselves into two camps, Hamiltonians and Jeffersonians. Hamilton never believed that the new Constitution was durable. He sought all his life to shore up a tottering structure with the props of the money power. Jefferson professed to believe in it but found it expedient to interpret it in the light of equalitarian phrases. They were half-gods, each mingling with his truth a basic error. Surely it is time for the half-gods to go. Genuine Americanism holds fast to both phases of the thought embodied in the Constitution, being neither Hamiltonian nor Jeffersonian but Washingtonian.

To complete the outline of Washington's ideal, of "the Federalist system" as intended by the Constitution, it is necessary to measure the degrees by which it has fallen short of success.

BOOK SIX

THE FEDERALIST IDEAL

CHAPTER XVI

FAILURES OF THE CONSTITUTION

I

More important than the theory of a constitution is the question, purely pragmatical, whether it fits and continues to fit the nation's needs. Hellas outgrew the possibilities of Athenian democracy and Rome the possibilities of the Republic. For the major part of two thousand years monarchy was the only feasible government: the historic principle of the balance was of interest only to archæologists of ideas and dreamers on things to come. May it not be that the American Republic is a transition form, half-way house to a popular rule purer and more complete?

That in some respects the Constitution has proved a failure is obvious. It did not prevent secession, though the Convention placed "a more perfect union" first among its purposes and Washington laid chief emphasis upon it in his Farewell Address. This failure has been remedied: to that extent the national republic has triumphed over democratic particularism. Elsewhere the equalitarian dogma has prevailed, or at least is in the ascendant. At the outset, the indirect election of President and Senate—the "refining" or "filtering" of the popular will essential to the balanced republic—was acclaimed even by those who subsequently became democrats the most doctrinary. Thus in *The Federalist* Madison doubly underscored "THE TOTAL EXCLUSION OF THE PEOPLE IN THEIR COLLECTIVE CAPACITY" from the election of Senators as "MOST ADVANTAGEOUS." Hamilton declared that the indirect election of the President had not only "escaped without severe censure" but had received "approbation" from some of the very enemies of the Constitution.[1] Yet both President and Senate are now elected directly. Similarly subversive of the ideas of the Fathers, though we seldom realize the fact, is the modern development of parties. Instead of counterbalancing the will of the many by the impartial wisdom of the few we give direct expression to it, or at least purport to do so. The four

years required to reverse the policy of a President offers one obstacle, and the even greater difficulty of transforming the Senate another; but both are mechanical merely. Apart from the Supreme Court—the authority of which is itself gravely challenged—independent and exalted leadership is held to be of no account as against the will of the dominant party. The checks established by the Constitution perforce remain; but, since the first triumph of faction in the Revolution of 1800, the horizontal balance has ceased to be a constitutional principle generally recognized—or even understood.

There is, however, another way of putting the question pragmatical. In the history of a nation as powerful as ours, and now so fortunately united, a century and a half is a mere syllable of time. Since the World War, there has been in all Western nations a reaction against the tenets and the practice of democracy—a preference for competent authority so great that in one-half of the countries of the European Continent a dictatorship is welcomed. Even in the United States the democratic dogma, long held to be sacred, is questioned as it has not been for over a century. May we not find, eventually, that it is we ourselves who are at fault?

Until Democratic candidates stand on an equalitarian platform and, when elected, give full scope to democracy unbalanced and unchecked, who shall say that the Constitution has failed? Thus far, the question pragmatical has only this ironic answer: the needs of our nation have been satisfied by professing a government of the people, by the people and for the people while doing reverence to a Constitution expressly devised to prevent it.

II

Meanwhile it may not be amiss to search the mind of Washington for light on those questions as to which he differed with Franklin, differed with Jefferson and Madison so far as they were apostates. Let it not be forgotten, as it almost invariably has been, that he knew the American people as few of our statesmen have ever known them, and that he trusted them always to "be right in the end." What he feared was the politicians—"interested men in the States," leaders "sagacious and designing" who founded their power upon "societies in a corner," upon "faction" and "party." No man knew better than he, unless it was John Adams, the disruptive force of insurgent pas-

sions, and absolutely none knew so well how much was to be gained by riding down the wild horses. Ultimately the people were to be sovereign, but only when convinced by experience, by the slow process of time, that their elected representatives had betrayed them.

> The very idea of the power and right of the People to establish Government, presupposes the duty of every individual to obey the established government. . . . All combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency.—They serve to organize faction, to give it an artificial and extraordinary force—to put in the place of the delegated will of the nation, the will of a party;—often a small but enterprising minority of the community;—and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils and modified by mutual interests.

This is the language of the Farewell Address. Writing in 1796, Washington had full knowledge of the insensate animosities of political faction, of its conscious and studied lies and its ruthless slanders; but the independence of representatives which he advocates is what the Constitution intended—what he himself had declared for on the eve of the Convention in his letter to his nephew Bushrod.

Was he wrong? For almost a century and a half, parties have been accepted as inevitable and have been praised by many as indispensable. Men who profess to revere the Farewell Address blandly ignore this passage; others cite it as evidence of the narrowness of Washington's outlook, his lack of prevision. Nobody has observed that the service of men of expert ability acting as independent representatives is essential to the balanced republic—that a party system giving direct effect to the will of the people is subversive of all that the great Fathers held dear. To complete the confusion, it has remained for a Democrat of to-day—not a politician but a captain of industry, yet the man who has been the instrument of the greatest service which America has rendered to nations prostrated by the late war—to evolve from his own experience and state in modern terms the precise ideas of Washington. At the dinner given to celebrate the so-called Dawes plan, Owen D. Young said:[2]

> Is it too much to hope that some day we may establish a definite foreign policy and maintain its continuity free from the horse-play of domestic politics

even with changing administrations? . . . Perhaps we need to put our State Department in such a non-partisan position that all citizens, including members of the Senate, may speak and act in foreign affairs with individual independence, free from the thought or charge of being traitor to the political party of their affiliation.

In introducing Mr. Young, Secretary Hughes spoke words the force of which is not obscured by the fact that he conceived "democratic" institutions as capable of the republican balance:

The greatest difficulty that we have in making democratic institutions work is in securing play for expert ability. Paradoxical as it may seem, we are too often overpowered by feebleness. . . . The checks and balances of governmental institutions are needed for our security against rashness, ignorance and passion.

The overpowering feebleness here alluded to is a Senate directly elected which, instead of co-operating intelligently with the Administration, achieves renown in Buncombe by harassing the executive. It was my privilege in 1924 to study (though not to publish in detail) the long and extremely difficult negotiation leading up to the Dawes plan as it is recorded in documents on file in the Department of State.[3] When these are thrown open to historians, it will appear that time and again the Republican Secretary of State was embarrassed and all but frustrated by the irresponsible fulminations of a Republican Senator. Then, it is to be hoped, the words of Owen Young (and of Washington) will be fully comprehensible.

As regards domestic politics, the waste and stupidity of the party system are manifest—as in the matter of equalization fee and debenture which so long embarrassed well-considered plans for farm relief. Senators for Buncombe are abetted by colleagues in self-imposed blinders. One Democrat explained to his constituents in a commercial State that in voting with his party for the debenture he had to hold his nose.

It is not to be denied that the question as to the position of parties in a self-governing nation is difficult. Over twenty years ago Lawrence Lowell remarked that the history and psychology of the party system had not been adequately studied.[4] The remark holds true today, and it may be extended with equal justice to the larger movement toward direct democracy, of which the party system is a logical product and an integral part. Until both have compassed their

full cycle of development critical judgment is perhaps impossible. Yet such utterances as Mr. Young's—and they are to be heard on all sides from men who, like himself, are professing Democrats—suggest that the day for a clinic is at hand. This at least can be said, that the point of departure is a recognition of the antagonism between the party system as it has developed during the ascendancy of the democratic dogma and the constitutional balance which it superseded and has all but destroyed.

III

Bolingbroke's essay against parties—so astutely written in behalf of the faction of which he was a member—may be dismissed. In 1752 Hume, in his *Essays,* having alluded to Harrington, considered the question whether contemporary English parties were divided on a matter of economic *interest,* the Tories standing for land and the Whigs for trade; he noted furthermore, that they were clearly divided on religious *principle,* Tory Anglican against Whig dissenter. Hume's observation was acute, but he abstained from generalization. These essays were widely read: Hamilton cited them, though on another subject, in the Federal Convention. Following Hume, Edmund Burke, in defense of the organized opposition to the autocratic and corrupt personal government of George III, made a reasoned and eloquent defense of "parties," "connections" and "associations," declaring that they were essential to a nation's liberty and urging that in behalf of solidarity in a major cause a statesman might honorably vote against his judgment on minor issues. But, though highly philosophic, his statement had reference to that particular crisis rather than to parliamentary government in general. The theory of a permanent party system was not formulated until after the practice had fully developed, a characteristic instance of the manner in which understanding lags behind progress. Lowell notes that, as late as 1795, Burke himself "falls into the current talk about the evils of domination by a faction." At precisely this time Washington, in preparing the Farewell Address in conference with Hamilton, speaks of reconciling *interests,* and comments thus, with obvious reference to Burke's statement of 1770:

There is an opinion that parties in free countries are useful checks upon the Administration of the Government, and serve to keep alive the Spirit of Lib-

erty.—This within certain limits is probably true—and in Governments of a Monarchical cast, Patriotism may look with indulgence, if not with favor, upon the spirit of party.—But in those of a popular character . . . it is certain there will always be enough of that spirit for every salutary purpose—and, there being constant danger of excess, the effort ought to be, by force of public opinion to mitigate and assuage it.

Note that a *use* of parties, a *salutary purpose,* is conceded. Washington objected only to excesses already rampant. His interest in Burke's ideas is attested by the fact that no less than five of the English statesman's pamphlets are known to have been in his library.[5]

It was not until the heyday of British power and prestige in the decades following Waterloo, when the House of Commons was universally acclaimed as "the Mother of Parliaments," that the attempt was made to generalize Burke's statement of 1770—to psychologize the two-party system, long familiar in action, as intrinsic in the nature of the political animal and essential to the conduct of free institutions. Thus Lecky, who paraphrases and measurably improves upon Macaulay:

There is a real natural history of parties, and the division corresponds roughly to certain broad distinctions of mind and character that never can be effaced. . . . The one side rests chiefly on the great truth that one of the first conditions of good government is essential stability, and on the extreme danger of a nation cutting itself off from the traditions of its past. . . . The other side rests chiefly on the no less certain truths that government is an organic thing, that it must be capable of growing, expanding, and adapting itself to new conditions of thought or of society. . . . The one side represents the statical, the other the dynamical element in politics.[6]

This view assumes that there are properly two parties only, and that their strife will be determined by philosophic ideas, by political principles. Lecky acknowledges that the division he outlines is sometimes blurred by momentary passion and the exigencies of practical politics; and in truth the honors and emoluments of office often outweighed ideas even in nineteenth-century England, when the Constitution was universally thought to be more nearly perfect than any in the history of the world. Thus Conservatives have consistently outbid Liberals for popular support, notably in the extension of the franchise. That the English party system has in general worked so well is largely due to the fact that, the Constitution being unwritten, it has developed freely, step by step with parliamentary democracy.

The ultimate result may not be so fortunate if, as many now think, parliamentary democracy is itself mistaken.

In America, except for the few crises in which a clear-cut and vital issue has been at stake, Lecky's statement reads like sardonic satire. Partisan selfishness was early reduced to a maxim in Marcy's "To the victors belong the spoils!" Civil service reform did much to mitigate the evil, but with a result highly ironic. The loss of patronage has meant a loss of party discipline, of the power of putting into effect measures to which the party is pledged. At best this is liable to serious checks, the Constitution having been expressly devised to prevent the immediate assertion of the will of a majority; deprived of patronage, the parties became doubly impotent to give effect to their platforms. Yet as regards the choice of candidates—thanks to the perfection of their organization and their deep roots in local and State politics—they wield an almost absolute power.

The office of President early became a perquisite of partisan triumph; but this has been perhaps the least damaging result of our party system. In the Convention, James Wilson and Gouverneur Morris ably and persistently urged popular election, and Madison followed them, though timidly—being embarrassed, perhaps, by the fact that the Virginia plan called for an election by the House and Senate jointly. A power which, while it lasts, is essentially monarchic, may well result directly from the suffrages of the people; and modern means of communication, together with the wide diffusion of education, have placed the people in a far better position to judge. It may be that, as Bryce remarked, a majority of Presidents have been quite commonplace men, but it is certain that they have been characteristically honest and patriotic, and have been notably steadied and uplifted by their high responsibility. It is by no means clear that the electoral college would have discovered more of the truly great than the people have done. Yet it must be noted that the people have not acted independently. Though in one sense they may be said to choose the President, they are strictly limited to candidates largely chosen over their heads. The parties have nullified the electoral college which the Constitution intended in order to set up nominating "colleges" of their own which are extra-constitutional and irresponsible—indirect but too often far from "refined." The great evil of the nominating convention is that, when a party is

clearly in the ascendant, as in 1912 and in 1920, the organization feels able to set aside popular and well-tried candidates in favor of mediocrities whom it hopes and intends to dominate. So doing, a party flouts Washington's solemn injunction, flouts the very essence of the Constitution.

Even more than the English parties, ours turn traitor to their principles in the struggle for office. Thus the League of Nations and its corollary, the World Court, were Republican ideas, congenial to the party's historic foreign policy and favored by a long line of its foremost statesmen—McKinley, Roosevelt, Hay, Lodge, Root, Taft, Coolidge and Hoover. But so soon as it was espoused by a Democratic President—who had hitherto been a particularist and isolationist—the Republican party fought it as if automatically, citing as authority Jefferson's misquotation of the Farewell Address to the utter distortion of Washington's meaning. The result has been that three Republican administrations, well disposed toward co-operation in behalf of international law and world peace, have found themselves virtually powerless as regards both League and Court—a striking comment on the independence of our wisest and best when enmeshed in the struggles of party. The political bosses—extra-constitutional and in fact *anti*-constitutional—have usurped their function to the destruction of its normal and salutary operation.

Against this strange combination of tyrannic power and impotence, our only recourse has been devices of direct democracy—initiative, referendum, recall of judicial decisions, preferential primary—which are equally antagonistic to the spirit of the Constitution and of Washington's Farewell Address. As yet they have been alike unsuccessful. Large numbers in both parties, often a majority, are unwilling and probably unable to become familiar with the questions submitted, and do not trouble themselves to vote. The direct primary multiplies the difficulties of candidates and their temptation to the lavish use of money, without sensibly lessening the irresponsible power which the party organization exerts so coldly and cynically amid the pandemonium of conventions. The very "Progressives," who once advocated these devices for *letting the people rule,* now look back with a strange tolerance upon bosses of the Mark Hanna type as intelligent by comparison and admirably responsible.[7]

In other than English-speaking countries the two-party ideal has

no shadow of warrant. Parliament is "a nightmare of factions" constantly changing in number and size, which at best represent some particular order or interest and at worst are personal followings. Party stability and party responsibility—a steady and successful grappling with crucial problems—are well-nigh impossible. After the war, there was little else on the Continent than threatened or actual Communism on the one hand and dictatorship on the other. A member of the first Baldwin ministry, travelling abroad, found himself confronted by a Polish statesman shaking a fist in his face. "What do you English mean," the man cried, "by telling us that peoples should be self-governed? The point is that they should be *well* governed!" The Briton told this story with reference to factional troubles at home, remarking that such pragmatism is even more English than the Mother of Parliaments.

IV

The fact seems to be that such differences of temperament and idea as may be traced in Conservative and Liberal, in Republican and Democrat, have been at most one of several influences that have determined party membership. Lecky himself answered the question which Hume raised as to the element of *principle* in party antagonism. In the early eighteenth century, indeed, Whigs did stand for "the right of the nation to depose a dynasty" while Tories had still a hankering for *jure divino* royalty; and a similar difference of principle was denoted by the fact that Whigs were generally Dissenters, while Tories were for the Established Church. But from the outset of modern parliamentary history an economic motive, a purely factional interest, underlay political and religious principles —agriculture against commerce. The Tory party "was called indifferently the 'Church party' or the 'country party,' while the commercial classes and the Dissenters uniformly supported the Whigs." [8] As the industrial revolution progressed, the economic cleavage steadily gained importance until in the nineteenth century it became paramount. In the United States religious issues have no place in politics: as Beard has so ably shown, the cleavage between Republican and Democrat was from the start, basically, that between agriculture and commerce, between the poor and the well-to-do.[9]

Much has been made of the fact that in both England and

America the line of cleavage ran up and down through all classes, being thus determined, or appearing to be determined, not at all by economic interest but altogether by political principle. Among people of our race and tradition, reasons have always been plentiful as the blackberries of Jack Falstaff—never more so than when some economic interest is to be served. The fact is that agricultural laborer and factory hand are, fundamentally, in the same economic plight as their employers and tend to side with them. The urban Democrat of our North and the agricultural Republican of our Middle West require explanation—and are capable of it. Party membership is very largely a matter of heredity and habit, consolidated by party organization. The humbler sort in the cities became Democrats because of their poverty, and the Middle-Western farmers became Republicans in the cause of Union and the freeing of slaves. At the utmost these anomalies do not affect the general truth that, both in England and America, the two-party system has not resulted solely from innate differences of temperament and a laudable disposition to vote in accordance with reasoned political conviction, but has been very largely grounded in economic interests. In England it so happened that the line of cleavage between Anglican and Dissenter coincided with that between agriculture and urban industry. In America, slavery, free trade and secession were pendants of the cause of Southern agriculture. It is a plausible hypothesis, certainly, that the "vertical cleavage" of the party system, on which Anglo-Saxons so deeply pride themselves, has been powerfully abetted if not determined by historic accident.

In the present status of parties, on both sides of the Atlantic, this hypothesis finds strong confirmation. In England the ascendancy of industry over agriculture is so complete that the old bone of contention between parties is quite bare—and the opposition of mere ideas between Liberals and Conservatives, between dynamics and statics, has proved so feeble that the Liberal party has virtually ceased to exist. If the two parties had had local intrenchments as strong as ours have, the story might be longer but the end would probably be the same. The chief reliance of the Liberals in this regard was a well-filled party chest; but it availed them little—and soon ceased to be well filled. With the emergence of the Labor party a new economic opposition appeared, naked and unashamed. The House of

Have Not is arrayed against the House of Have—virtual class war. As both factions are themselves divided on a question of idea and temperament, the cleavage is no longer twofold but at least fourfold. Conservatives and liberals in the House of Have are matched in the House of Have Not by Fabian socialists and communists. And, as always, there is the religious issue, a question as to the Prayer Book throwing Parliament into turmoil. The "bloc" system of the Continent is not yet in *esse,* but it is clearly in *posse.*

In America the class struggle is not formidable, thanks doubtless to our abounding prosperity and to the fact that labor has succeeded in securing a liberal share in it. But, as in England, the economic basis has been largely cut from under the historic two-party system. The triumph of the Union and the freeing of the slaves drew attention for a time from the ascendancy of industry over agriculture; in the "Solid South" and in the Middle West ancient animosities were consolidated and long preserved by local party organizations based on the emoluments of office. But so far are the two parties from standing by the traditional issues that Republicans never tire of proclaiming allegiance to the equalitarian dogma and absolute reliance on the common people, while Democrats have lately plumped for the tariff. In the South the Democratic party is tending to disintegrate, largely in behalf of its new industries; while in the Middle West the Republican party is split by the agricultural interest.

As regards legislation at the national Capital the dominant forces are now economic—the "blocs" of which we have seen so much. The parties are both disrupted by a multitude of forces of precisely the kind that distract the parliaments of the European Continent. In their platforms, it is true, both parties profess a willingness to be of service to all the contending factions—a willingness which, ironically enough, is precisely in line with Washington's exhortation in behalf of "common councils modified by mutual interests." Thus both organizations disclaim partisan policies. But the *interest* actually at stake is the achievement of office and the strengthening of the organization. So soon as this is gained the Washingtonian conception vanishes. When measures the most needful are attempted at the Capital they are delayed, distracted and often frustrated by strife purely factitious, arising within the ostensibly dominant party.

In one of his illuminating footnotes Lord Bryce records the answer of an American newspaper editor as to the principles on which our parties differ. "It is this way: You have two bottles, one labelled Scotch, the other Rye—and both empty." Is it quite clear that a system under which such able containers are without contents is an improvement on the intent of the Fathers?

V

One defect in the working of our party system has been generally admitted—that which, in the nineteenth century, distracted Bagehot and Wilson and Fiske. By an accident of frequent occurrence, the party which has elected the Executive may be outnumbered in either house, and so be impotent to fulfil its election promises. Even when it has, or should have, full control, legislation is distracted and frustrated by the system of committees that work in the dark, by Senators who act for Buncombe. The Administration seems inevitably at odds with the Senate, and both with the House—on issues unrelated to the national welfare or even to party programmes. Power is divorced from responsibility, the legislative function from the administrative. Measures are largely framed as the result of conferences between legislative committees and lobbyists representing the interests affected: the Administration itself can take part only by a not dissimilar system of private conference with individual Congressmen. To this extent, certainly, our procedure is inferior to that of England. It would be far better if our laws were framed in open conference with the member or members of the Cabinet who are to be responsible for giving them effect. Public debate, well informed and decisive, is indispensable to the honesty and comprehensiveness of both legislative and executive conduct. It is even more indispensable to the information of the people, by which alone recurrent elections can intelligently control representatives.

From Washington's first administration until the present year of Congressional grace, there has never been a time when intelligent observers have failed to see, and to proclaim, that the lack of effective co-operation between the executive and the legislative function is a vital defect in our Constitution. Quite recently, Senator Couzens of Michigan pointed out that if it had been possible to question Cabinet members and hold them responsible, the Teapot Dome oil-

lease scandals would not have come, to cover us with shame. Senator Kendrick of Wyoming, whose State was materially affected, "tried repeatedly before the leases were signed" to find out what the Department of the Interior was up to, but in vain. If the Secretary could have been called to account on the floors of Congress, "he could not have avoided the issue." Almost a century before, in 1833, Joseph Story made a summary of the evils of excluding Cabinet members from Congress which contains, among others, this sentence of luminous prevision: "If corruption ever eats its way silently into the vitals of this republic, it will be, because the people are unable to bring responsibility home to the executive, through his chosen ministers." [10]

For focussing attention on this defect, the Bagehotians deserve as much credit as they deserve discredit for the terms in which they did so. Uninformed as to the real intent of the Fathers, they rendered a modern and Anglophile verdict upon it, to which the prevalence of the democratic dogma gave currency. This verdict has been echoed especially by writers on Government, by historians and by jurists—leaders of opinion who, of all men, should be the best informed and the surest in judgment.

Bagehot and his followers, as we know, attributed the lack of co-operation to the prevalence of the "literary theory" of the separation of powers as popularized by Montesquieu and supposed to be exemplified in England. It is true that the Convention intended to separate and balance the legislative, executive, and judicial powers so that none of them could control the legitimate functions of the others; but only the superficial and the phrase-led thought that the separation should be even approximately rigid and complete. To these *maxim-mongers* Madison addressed a series of articles in *The Federalist,* pointing out that they "totally misconceived and misapplied" the words of their "oracle," and that, in practical operation, the departments should in some measure *blend* and form "an integral part of one another," as when the President vetoes legislation, or the Senate takes part in treaty-making, or in appointing ambassadors, Supreme Court justices and members of the Cabinet. Such was the case, he showed, not only in the English Constitution which was Montesquieu's model but in our recently framed State constitutions. This interpenetration and coalescence, if only it

is comprehensively planned and properly limited, Madison held to be essential to a proper working of the balance. Without it, the whole fabric goes awry—that very "degree of separation" which the balance requires "can never in practice be duly maintained." One sentence deserves special emphasis. *"The interior structure of the government"* must be so contrived "that its several constituent parts may, *by their mutual relations,* be the means of keeping each other in their proper places."[11] To that extent, a vertical balance must blend with the horizontal.

In its original context, the idea is perhaps less clear to us than as quoted in this connection. It must always be borne in mind that the men of the Constitutional era had a background of knowledge and a set of ideas that it is difficult or impossible for the modern mind to reconstruct. Of one thing we may be certain. Though the Convention definitely rejected the proposal of an executive created by and directly responsible to Congress, many of the great leaders had a quite distinct conception of a Cabinet or Council which should be at once a link and a buffer between the two. Some such *blending* intermediary was already in operation in several States. As to precisely what this conception was, the evidence has not yet been assembled and sifted. Few inquiries could be more interesting in themselves, or more practical from the point of view of our present difficulties. Especially significant is the nature of the obstacle which, in the Convention, wrecked the Cabinet Council.

VI

So far as I can find, the only deliberate and comprehensive scheme for blending the two departments while keeping them sufficiently independent was framed by Charles Pinckney.

His plan was, indeed, as he said, *"founded* on the same principle" as the Virginia plan. In both the House was to choose the Senate and the two jointly were to choose the President, making a single upward line of preferment and a single downward line of responsibility—a provision which was already familiar in State constitutions, notably that of Virginia, and which continued in force until changed under the influence of the new national Constitution. But there the similarity between the Pinckney and the Virginia plan abruptly ceased.

The difference lay in a question as to the independence of the Executive. At least two Virginians, Randolph and Mason, shared the deep popular distrust of a President stably balanced against the Legislature—held it so firmly that, largely for this reason, they refused to sign the Constitution. Randolph denounced a single Executive as "the fœtus of a monarchy." Madison himself leaned toward a plural Executive, or at least a single one strongly influenced by a Council, as in Virginia.[12] Pinckney had no such bias, holding firmly to the historic theory. But a study of his plan as reconstructed by Farrand, and especially of his *Observations,* will show, I think, that he intended the infusion of a vertical balance analogous to that in England—a Cabinet vibrating between Legislative and Executive to the reinforcement of both. The schism between Executive and Legislature, from which we have suffered so long and so deeply, was primarily due to the fact that his idea went awry.

Pinckney's Executive was to be elected, not by the people, but by Congress, "either from among themselves or the people at large"; but he was by no means to be dependent upon Congress for his authority. It was "essentially necessary" that he be "distinct." He was to be elected for seven years, so that, as the term of Senators was only four years and that of Representatives (presumably) much shorter, he would long outlast the Congress that appointed him. His powers were to be notably extensive, at least according to the standards that prevailed at the opening of the Convention. If he thought fit, he could "convene" and "prorogue" special sessions of the Legislature. He was to "attend to the execution of the acts of Congress by the several States." He was to be Commander-in-Chief of the Army and the Navy. He alone was to appoint all officers except judges, foreign ministers and heads of the executive departments—chosen, as of old, either from Congress or from the people at large. The heads of the great departments were to continue to be appointed by Congress; but the President was empowered "to suspend officers, civil and military." He might thus exercise over Congress a great power of patronage, and over his Cabinet the power of removal.

The *Observations* fix two limits to the President's power which seem paradoxical. "He cannot be clothed with those executive authorities, the Chief Magistrate of a Government often pos-

sesses"; and "he is not a branch of the legislature, further, than as a part of the Council of Revision." It is between the horns of this dilemma that the blending Cabinet emerges. Certain executive functions are withheld from the President "because they are vested in the Legislature." The meaning of this is elucidated by a remark of Pinckney's in the Convention, which, though it does not make sense as recorded, is explained by the remarks of others. The power of declaring war, which in England belonged to the Crown, at least in theory, must continue to be vested in Congress as under the Articles of Confederation. In the *Observations* Pinckney proceeds to say that Congress cannot delegate its powers "in any but the specified mode." This mode, alluded to rather than specified, is to appoint the Ministers of War, State Finance, etc., itself.[13] The reason why the President cannot be "a branch of the Legislature" is that the veto power, already familiar in the States, is denied him, being more persuasively replaced by a Council of Revision. This Council was mainly made up of the great executive ministers, and for that reason Pinckney presently abandoned it, uniting both functions in the same body. Then more than ever his remark of the *Observations* was true: "By this means our Government will possess what it has always wanted, but never yet had, a Cabinet Council." It is the first time the word *Cabinet* occurs in relation to the Constitution and, so far as we know, it was not uttered in the Convention, though the idea was in many minds. Thus both the President and the Cabinet were, so to speak, an emanation from Congress, and Cabinet members retained their seats there.

Pinckney's conception of the relations between President, Cabinet and Congress may be rather clearly surmised. "Whenever he conceives it necessary," the President is to "inspect" the various departments and thus "operate as a check" upon their heads. He is "to acquire their advice and assistance whenever the duties of his office shall render it necessary." In conference with them he is "to prepare and digest" such measures as are to come before Congress. Lacking a veto, and lacking decisive control over his Cabinet, he has less positive power than the Constitution granted; but, thanks to what Madison called the "mutual relations" in "the interior structure of the government," he has greater potential influence. The measures which he and his Cabinet have *digested* the various heads of depart-

ment explain and defend on the floor of Congress and in the open view of the nation; and if the first result is unsatisfactory the President has the right of reasoned protest, first as member of the Council of Revision, and then through his ministers in open debate. If a Cabinet member refuses to co-operate with the President, or is not able to do so conscientiously, his official life is at stake.[14]

A weak man would no doubt make a weaker President, controlled by the vicious Legislators who had preferred him. But a man honorably preferred by his fellows for his character and ability would wield an influence comparable to the power of an English Prime Minister—and would be secure in his tenure of office for seven years.

VII

In the Convention the movement which resulted in our very different Cabinet was perhaps the most confused of all episodes and only of late has it attracted the attention it abundantly deserves.[15] The difficulty is largely due to the fact that the word *Council,* which was used in the debates, denoted two very different things, a Privy Council and a Cabinet Council. Thanks to Pinckney's *Observations* we know that the difference was clear in the minds of the Convention; but, owing to a variety of reasons, it was never clearly developed.

The Privy Council had been familiar for centuries, in both England and America, as applied to a group of aides and advisers to the Executive. In America it had early expanded into a senate—but without itself disappearing. The members were usually elected by the Legislature, but the appointment was subject to a veto by the Colonial Governor. It was expected to serve as a link and a buffer between the Legislature and the Executive; but, as the Revolution approached, it tended to take sides with the Legislature in revolt against the authority of the Crown. Of the new State constitutions, a large majority had Councils. The members were usually chosen as of old by the legislatures but were sometimes subject to the governor's acceptance. The degree to which their "advice and consent" was obligatory upon him varied greatly; but the mode of their appointment, together with a prevailing distrust of executive authority which was scarcely less than it had been under the Crown, made them in general a serious check upon him, sometimes with disastrous consequences as in the case of Jefferson as War-Governor of Virginia.

In the Convention, advocates of a vigorous executive were opposed to a Council of the familiar type, with the notable exception of Madison, who seems to have stood with Mason and Randolph—and presumably, against Washington. James Wilson said that the Councils served oftener to cover malpractices than to prevent them. Said Charles Pinckney: "Give him [the President] an able Council and it will thwart him; a weak one, and he will shelter himself under their sanction." In no State had the device been of notable public service and none of those without a Council ever adopted it. By 1792, three States had abolished the Council and many others eventually followed their example.[16] Furthermore, any helpful precedent with regard to a National Council, as *Cabinet,* was rendered impossible by the fact that the State Councils could have no Secretaries of War and of Foreign Affairs, and that in general the members served as representatives of the Legislature as a whole rather than as heads of distinct executive departments.

If the Privy Council was a dubious precedent, however, the Cabinet Council was under a cloud of odium. There was excellent reason why the word was not used. In England it had emerged in the preceding century as a clique or junto within the Privy Council and even by the time of Hallam's *History* (1827–45) its constitutional status was by no means clear. In our Revolutionary and Constitutional era it was far as the poles from achieving its function as link between Legislative and Executive, having succumbed to the corrupt influence of George III. Pinckney's proposal in the *Observations* was obviously suggested by developments in our own Congress of the Confederation. He was even then a Member and had served with distinction on important committees, as had also many or most of his fellows in the Convention. How sorely Congress "wanted" responsible, powerful and professionally equipped executives Washington had perceived as early as 1776—when he started the agitation that led to the appointment of army officers (not civilian members of Congress inexperienced and constantly changing) as heads of the Board of War. It had been shown again in the crisis of the Revolution, when his advance upon Yorktown could be financed only by calling in Robert Morris and giving him plenary power. That accomplished, Congress again asserted its jealous distrust of authority and Morris retired in disgust. But the need continued,

this time with regard to our complicated foreign affairs after the war, and John Jay became virtual Premier. As the French Minister, Otto, wrote to Vergennes, Congressmen "whom chance has assembled from all parts of the continent" and who are subject to the blight of rotation in office, can know little of foreign affairs—much less construct and carry out a consistent policy; whereas secretaries of state are chosen for their experience and character, "can be removed only for bad conduct," and thus enjoy great prestige. "Mr. Jay especially has acquired a peculiar ascendancy over the members of Congress. All important business passes through his hands." Again: "Congress seems to me to be guided only by his directions." This was written within the year preceding the Convention, and the Secretary of State was still virtual Prime Minister.[17]

Otto notes that this executive control is "incompatible with the spirit of jealousy which prevails in this country." That is an understatement verging on the humorous. As the term *Cabinet* was applied to these secretaries imported into Congress, it was synonymous with *Cabal,* and thus derogatory, derisive, and not without a suggestion of corruption, derived, like the words, from English practice. Those who think that the Convention was bent only upon *copying* the English Constitution, or even on transposing it into terms of an American republic, will do well to consider the debates with reference to their historic background.

The House of Commons was overrun with "placemen" who rendered political subservience to the King in return for lucrative offices and other financial favors. Able young men were launched on a career as "pensioners"; officers in army and navy who were amenable to Tory designs sat while retaining their commissions; merchants and bankers bought seats and used them to gain contracts and the control of public funds; needy scions of nobility received salaries as Receivers, Surveyors, government clerks.[18] It was by such means that the royal power had been maintained and increased until George III made it predominant, destroying in both Parliament and Cabinet Council all sense of responsibility to the people. Sincere republicans could only be scandalized; but, as it happened, those were most so who knew least the history of English corruption and its inward workings.

Under William III, in 1701, Swift had described the Crown as

"the weakest" of the three elements in the balance, yet able to maintain a stable equilibrium by legitimate influence. By the middle of the century the influence of King and Lords over Commons had been so consolidated that austere virtue could only be shocked; yet the earlier Georges mainly respected the Constitution and Hume defended this dubious influence in the vein of Swift, as necessary to the balance. In the reign of George III, such corruption was made the means of a royal power which, as exerted against the American colonies, proved to be disastrous as it was tyrannic. Yet Edmund Burke, even while opposing the Tory ministry, voiced acutely reasoned doubts as to a perennially agitated "place bill" against corruption. Innumerable statesmen of the highest ability, Burke among them, have owed their entrance into public life to the gift of a patron. And forces wholly new were to be reckoned with. "A great official, a great professional, a great military and naval interest," Burke now wrote—being obviously indebted to Harrington, whom he mentions —"all necessarily comprehending many people of the first weight, ability, wealth, and spirit, has been gradually formed in the kingdom. These new interests must be let into a share of representation, else possibly they may be inclined to destroy those institutions of which they are not permitted to partake." [19] The concluding sentence is significant to-day in view of the similar plight of new groups in our economic life. It may be noted also that, when reform eventually triumphed in England, the accession of power that resulted to the House of Commons, owing to the exclusion of "placemen," was the beginning of the long process by which the horizontal balance has been shifted to vertical.

To a majority of our Constitutional Convention, the situation which Burke described seemed an unmitigated scandal. Highly as they esteemed the historic theory of the English Constitution, and its practical working in general, the "influence" upon which the balance was founded had become so corrupt, and had interpenetrated its fabric so thoroughly, that they fumed and raged against anything at all like it in our republic.

The group who favored a Cabinet as against the familiar type of Council were those who feared lest the Executive be overbalanced by the Legislature. They were clearly in a minority, yet as clearly they included the very ablest men in the Convention, except only Madi-

son and Franklin. In order to strengthen the President, they went even farther than Pinckney, favoring an independent source of authority—election by the people, not Congress—and striving to provide him, though in a legitimate and well-ordered manner, with a *patronage* over Congress sufficient to insure a just balance—by enabling him to appoint Members as judges, ambassadors and Cabinet Ministers. At least three of them appear to have been for giving him the power to appoint without the "advice or consent" of Congress or Council. Hamilton stipulated this in both his "sketch" of a government of June 18 and the "plan" he drew up toward the close of the Convention. The far broader-minded James Wilson was so averse to the participation of the Senate in appointments that he was willing to accept instead a mere Privy Council—"provided its advice should not be made obligatory on the President." Mercer said, when arguing against an overbalance of power in the Legislature: "The [proposed] Executive has not *force;* deprive him of influence by rendering the members of the Legislature ineligible to Executive offices, and he becomes a mere phantom of authority. . . . The Executive ought to have a Council, being members of both Houses." [20] Advocates less intransigent would doubtless have favored appointment not by the sole power of the President but, in the manner ultimately adopted, with advice and consent of the Legislature; but, in relation to the Cabinet Council, the discussion never centred upon that point. Nor was the question raised as to a Cabinet wholly appointed from others than members of the Legislature, the divisive effect of which we witness daily.

Mercer's plea was uttered with regard to a provision in the Virginia plan which barred Senators and Representatives from any other office. As a Cabinet Council was never formally discussed, that debate gives us our clearest insight into the minds of those who opposed and those who favored it. Randolph, Gerry, Mason and their kind sarcastically and bitterly denounced the attempt to strengthen the President through the power of appointment as an intended tyranny. Luther Martin later deposed that it was made "three different times," and he concluded in triumph that it "as often failed." The defeated leaders made up in intellect what they lacked in numbers. James Wilson and others pointed out that the provision, as then worded, would have deprived the Revolutionary army

of the leadership of Washington, who went to Cambridge from his seat in Congress. Gouverneur Morris said: "Exclude the officers of the army & navy, and you form a band having a different interest from & opposed to the civil power: you stimulate them to despise & reproach those 'talking Lords who dare not face the foe.' Let this spirit be roused at the end of a war, before your troops shall have laid down their arms, and though the Civil authorities be 'intrenched in parchment to the teeth' they will cut their way through." Evidently he had been reading Burke's plea for a fuller representation of *interests.* Many in the Convention, including Madison the recorder and the silent Washington in his presidential chair, must have started at so frank an allusion to the Newburgh plot. Hamilton admitted that there were "inconveniences on both sides," but pleaded frankly the necessity of a stably balanced Executive. "In England," he explained, "one of the ablest politicians (Mr. Hume) had pronounced all that influence on the side of the Crown, which went under the name of corruption, as an essential part of the weight which maintained the equilibrium of the Constitution." Rufus King pleaded that to debar members from office would "discourage merit." Charles Pinckney declared that it "was *degrading* to them." He argued "that it was *inconvenient* because the Senate might be supposed to contain the fittest men," and should "become a School of Public Ministers, a nursery of Statesmen: that it was *impolitic,* because the Legislature would cease to be a magnet of the first talents and abilities." He cited "the policy of the Romans, in making the temple of virtue the road to the temple of fame." But the spectre of English executive usurpation founded on corruption stalked triumphant.[21]

A detailed proposal for a Cabinet Council (called a Council of State) was, indeed, submitted, with an air of much importance, by Pinckney and Gouverneur Morris. It was referred to a committee without debate. The committee reported it with inessential modifications. To the heads of the great executive departments were added the President of the Senate, the Speaker of the House and—quite like the English Cabinet—the Chief Justice. The report provided that their advice "shall not conclude the President"; but it made no provision as to who should be eligible nor how they should be appointed. It was not brought up for discussion. The apparent

reason, as Charles Warren points out, is that a majority of the Convention had "expressed their opinion in private against it"; for Mason, who vehemently favored a Council which should influence or control the President, remarked that "in rejecting a Council" they were about to try "an experiment on which the most despotic governments had never ventured." He added, dramatically: "The Grand Signor himself has his Divan."

VIII

The fact seems to be that the provisions from which our Cabinet has resulted were a compromise and not a solution of the question. The Constitution declares that "no person holding any office under the United States shall be a Member of either House during his continuance in office." That was a victory for opponents of presidential influence. The provision as to the secretaries of the great departments is of the vaguest: they are assumed rather than instituted. The President is merely authorized to require their opinion in writing—a provision taken over from State constitutions bent on fixing responsibility for executive acts. With the President virtually free to choose his Cabinet it has proved of no importance. In all probability the astute and able drafting committee thought that the less said the sooner mended, and left the Cabinet to achieve what power it could as a result of the magnitude and pressure of executive business.

The vehemence of the opposition to a Cabinet Council and a stably balanced Executive is most clearly suggested by objections raised against these provisions at the close of the Convention—as is also their lack of any clear intent. Mason admittted a possibility that the President, requiring the advice and consent of the Senate on so many executive acts, would "become a tool to" it; but it seemed much more likely that he would increase his power through the fact that he had the appointment of "the principal officers of the great departments" and develop "a Council of State"—a Cabinet Council —which Mason denounced as "the worst and most dangerous" Council that could be devised. What he advocated was "a Constitutional Council"—formed on the lines of the Privy Councils of the State constitutions. In the South Carolina ratifying Convention, James Lincoln cried: "Pray who are the United States? A President and four or five Senators . . . a few men, who, with an army, navy, and

rich treasury at their back, may change and alter [the Government] as they please." [22] Such alarmists quite ignored the balancing effect of the lower House and the Supreme Court.

That the effort of so many great leaders to secure a Cabinet equally balanced between Executive and Legislature has escaped scrutiny is not so strange as may appear. Though the debates were many, they mainly took place over other questions, the relationship of which was only oblique. Any direct and comprehensive proposal would have been buried under an avalanche of oratory against corruption such as that in England. The attempt evidently was to twist the familiar Privy Council into a true Cabinet under a strong Chief Executive, the need of which the old Congress had felt so sorely. The long neglect of Pinckney's illuminating statement in his *Observations* is a natural result of his dubious conduct in 1818, which placed his really important part in the Convention under a cloud from which it is only beginning to emerge. It is possible also that the purposes of the great leaders were not quite clear to themselves. Both the improvised "Cabinet" of the Confederation and the Privy Councils of the States were in a rudimentary stage of development, as was also the English Cabinet in its relationship to a Parliament of the People.

Learned has well said in *The President's Cabinet,* a work of acute learning, that the chief function of a Cabinet is "to bring about a co-operation among the different forces of the state without interfering with the legal independence of those forces." He adds: "no one in the eighteenth century expressed the fact—indeed probably no one could have expressed it." [23] It may be granted that the humblest mind of to-day is in a far better position to see clearly, thanks to a century and a half of experience on both sides of the Atlantic. Yet the more closely one studies the debates of 1787 in the light of Pinckney's *Observations* the more clearly an idea emerges which is of crucial importance to-day.

The great leaders appear to have intended to make the path open and straight from House to Senate, from Senate to Cabinet, and from Cabinet to the Presidency. The path of virtue was to lead upward to fame and power. That is largely the case in modern England. But to attain the vertical balance England has destroyed the horizontal. Complete as is the authority of the Prime Minister, he

is subject to the worst vice of a unicameral government—liable at all times to be tumbled from power. So far as we can judge the intention of the great Fathers, it was to attain the virtues of the vertical balance while keeping it subordinate to the horizontal—subject to the control of a bicameral legislature and a strong President with a fixed and extensive tenure of power. That there are pitfalls in the way of virtue is not unknown to students of the political animal, but this much may be conjectured with some confidence: if preferment depended not only upon the acclaim of home folk but upon the good opinion both of fellow legislators and of the President, the political animal in the Senate might hesitate to thwart sorely needed legislation with his eye on the front page, and he might be somewhat more sparing of eloquence appreciated in Buncombe.

IX

Considerable scope remained, however, for enhancing the authority of the President and his secretaries—by taking advantage of those contacts with the legislature which the Constitution permitted. Here is a failure which can be measurably attributed to Washington, and it gives a strong touch of reality to his historic portrait. He proved utterly unable to advise and consent with the Senate. That, to be sure, has never been easy, and it has seldom been harder than at the opening of the first Congress. Already the atmosphere was charged with democracy and its familiar spirit the horror of monarchy. In an effort to invest the procedure of the Senate with uniformity and dignity, the Vice President, John Adams, had called its attention to forms of address. Titles such as are now tamely habitual—"The Honorable" for congressmen and "His Excellency" for ambassadors—upset all the vials of democratic wrath. The suggestion of one Senator that the President be addressed as "His Elective Majesty" was an obviously satiric fling at Hamilton's "elective monarch for four years"; but when Adams urged, and a majority in the Senate agreed to, "His Highness the President," the democrats, with entire sincerity as it seems, accused him, and Washington too, of an itch to assume hereditary titles of nobility, even of aspiring to royalty.

Chief among the viewers with alarm was one William Maclay, democratic Senator from Pennsylvania. His *Journal* is a delectable,

an utterly irresistible, medley of childlike innocence and guile, of credulity and suspicion alike fantastic, of sand-blindness and shrewd mentality, of bland vanity and viperous venom. His qualification for the senatorial toga, and especially for dealing with this matter of a salutary blending of executive and legislative authority, is amply suggested by this passage:

> My mind revolts, in many instances, against the Constitution of the United States. Indeed I am afraid it will turn out the vilest of all traps that ever was set to ensnare the freedom of an unsuspecting people. Treaties formed by the Executive of the United States are to be the law of the land. To cloak the Executive with legislative authority is to set aside our modern and much-boasted distribution of power into legislative, judicial and executive—discoveries unknown to Locke and Montesquieu, and all the ancient writers. It certainly contradicts all modern theory of government, and in practice must be tyranny.
>
> Memorandum: Get, if I can, the *Federalist* without buying it. It is not worth it. But, being a lost book, Izard, or someone else, will give it to me. It certainly was instrumental in procuring the adoption of the Constitution. This is merely a point of curiosity and amusement, to see how wide of its explanations and conjectures the stream of business has taken its course

It may be hoped that Izard ponied up, and that the Senator read Madison's diatribe against *maxim-mongers.*

In Maclay's *Journal* we find the first formal charge that the Vice-President was plotting to ennoble the Adams progeny with a hereditary title and that Washington was plotting to undo the Constitution. Clearly, the claim of his grand-filial editor that he was the John the Baptist of Thomas Jefferson is not unworthy of consideration.

In one respect Maclay's talent was of high order—as a dealer, albeit unconsciously, in verbal caricature. His erring line reveals inerrant truth, and Trojans and Tyrians fare alike. "Hamilton has a very boyish, giddy manner, and Scotch-Irish people would call him a 'skite.'" How admirable to have refrained from *blatherskite!* Jefferson had "a rambling and vacant look," and "his discourse partook of his personal character." In the new monarchic parlance, Madison was "His Littleness" and John Adams "His Rotundity." There was in Madison "an obstinacy, a perverse peevishness, a selfishness, which shuts him up from free communication." As Vice-President of the United States and President of the Senate "Bonny John Adams" showed the conceit of "a monkey just put into

breeches"; "he sat ever and anon mantling his visage with the most unmeaning simper." Alas for his boyish resolution to "mend the fault" of "affecting wit and humor, of shrugging my shoulders, and moving, distorting, the muscles of my face." Knox had "a Bacchanalian figure." In this one instance, it may be recorded, Washington had already outdone Senator Maclay in verbal caricature. According to a tradition piously transmitted in the family of a patriot who crossed the Delaware with him, the Commander-in-Chief amused and heartened his comrades by saying, "shift your arse, Knox, and trim the boat!"

As a parliamentarian seeking advice and consent, Washington's touch was less inspiring. The matter on which he first repaired to the Senate chamber was certain treaties to be negotiated with Indian tribes of the Southwest. Once again he was accompanied by General Knox, now filling the seat of Secretary of War. To discuss measures of state, often of complicated detail, with a legislative body cannot be easy at best—even with one as small as our first Senate. The Indian treaties were of minor import and non-partisan, but that did not prevent the spirit of faction from rearing its head. The leading Federalists, defeated in the Convention in their effort to strengthen the President by enabling him to recruit his Cabinet from the two Houses, were exerting every effort to establish his authority in conference with Congress. Washington was known to have made overtures to the lower House with reference to Cabinet salaries, and Madison was rightly held to be "deep in this business." Minds to which the Constitution was a *trap* and *The Federalist* a *lost book* were primed and cocked against executive tyranny. At first Maclay and his fellows had conceded that Washington was "in a great measure passive" in this business of exalting the Executive; but they now held that "the creatures that surround him would place a crown on his head, that they may have the handling of its jewels." Even the cry of *monocrat* appears thus early in Maclay's *Journal,* as does the dubbing of Federalists as "the court party" and the usurpation of the term *republican* by the democratic opposition.

In all this the Federalist majority in the Senate seems to have regarded Maclay as a rather absurd busybody. He himself records that they made genial efforts to josh and jolly him out of his humors. And then, when he insisted on a secret ballot as against a *viva-voce*

vote, his fellow Senator from Pennsylvania, Robert Morris, "rose and said" that "he hoped his honorable colleague would change his sentiments for his own sake." The counsel was warranted on the broadest principles, but Maclay took it in the narrowest personal sense. "The words *for his own sake,*" he confides to his *Journal,* "were not without meaning. I have never been at the table of the President or the Vice-President, or taken the least notice of, for a considerable time, by the diplomatic corps or the people of *ton* in the city. But I care not a fig for it." Weeks before, in point of fact, the President had sent Maclay tickets for *The School for Scandal*—which the Senator was so far from appreciating as to denounce it as "an indecent representation before ladies of character and virtue." Yet evidence abounds that Washington had fallen short in the methods of diplomacy.

On the fateful day of the Indian treaties, the President "told us bluntly that he had called on us for advice and consent." Knox turned over his papers to Adams, who "hurried over" them. But there was such a noise of passing carriages that he could not be heard. The reading was repeated. At the end were seven "heads," on which the Senate was asked to give its advice or consent. There was a dead pause. Again Robert Morris attempted diplomacy. He whispered to his colleague, "We will see who will venture to break the silence first." As Morris doubtless feared, it was Maclay—though he tells us that he "rose reluctantly." "It appeared to me," he explains, "that if I did not no one else would, and we should have those advices and consents ravished, in a degree, from us." He called for a reading of all the treaties and other documents. Washington showed "an aspect of stern displeasure." "The business labored in the Senate. There appeared an evident reluctance to proceed."

The chief expedients in resistance were to require that votes be not openly announced but recorded by secret ballot, and that measures be put in charge of committees to the deliberations of which the Executive had no constitutional access. At an early stage of the affair, Maclay "had whispered Mr. Morris" that "the best way . . . was to have all the papers committed." "My reasons were, that I saw no chance of a fair investigation of subjects while the President of the United States sat there, with his Secretary of War, to support his opinions and overawe the timid and neutral part of the Senate."

In the pass to which matters had now come, the proposal was not without reason, and Morris suggested a committee of five. Pierce Butler cogently protested that the Senate "were acting as a council," and that "no council ever committed anything." Maclay was voluble in insisting upon handling such matters in committee, in the President's absence. "I spoke through the whole in a low tone of voice. Peevishness itself, I think, could not have taken offense at anything I said." But, as Maclay sat down, Washington "started up in a violent fret." The first words he said were, *"This defeats every purpose of my coming here."* Still in his "fret," he explained that he and Knox were prepared "to give every necessary information," and objected to the delay of commitment. But, as in the cases of the little man with a hickory stick and the impertinent Colonel Muse, he mastered his rage. "He cooled, however, by degrees," and consented to a delay from Saturday to Monday. "A pause for some time ensued. We waited for him to withdraw. He did so with a discontented air. Had it been any other man than the man whom I wish to regard as the first character in the world, I would have said, with sullen dignity." The latter phrase is assuredly more characteristic. But the account, in so many ways veracious and lifelike, concludes with this: "I cannot now be mistaken. The President wishes to tread on the necks of the Senate."

Over Sunday, Washington completed his riding down of the wild horses. When he reappeared in the Senate, he "wore a different aspect." "He was placid and serene, and manifested a spirit of accommodation." After him came one of his household, delivering to Maclay an invitation to dine—to which we owe some richly captious comments on the amenities of the President's table. Never again did Humpty Dumpty sit on the wall. Seldom has there been an example more tragically significant of the constructive power of diplomacy—or, indeed, of simple stage management. An expert committee was obviously needed to digest such matters and explain them before a committee of the whole. Only as a result of preparation was there any hope in conference and discussion with the Executive. Washington had the genius to lead men laughing to victory and—what is a thousand times harder—to maintain his command unshaken in defeat. He had the modesty and the stanch republicanism to hold himself humbly subservient to constitutional au-

thority, though it seemed to doom him forever, and all he held most dear, to the vale of despair. But he could not plan a campaign of political *ménagement* or foresee that Americans of senatorial rank would have minds ignorant of their constitutional liberties, so hard-won and bitterly paid for, and hearts embittered by a social slight, real or imagined.[24]

X

As to the similar crisis in the lower House the record is less clear and graphic but scarcely less interesting, involving the breach between Madison and Hamilton. The draft of the act under which the Treasury Department was to operate gave the Secretary a relationship with Congress far more intimate than that of any of his fellows in the Cabinet. In 1819, John Quincy Adams recorded in his *Memoirs* a tradition that Hamilton himself wrote the draft, "intending to establish direct intercourse." Though not yet appointed Secretary, he was living in New York, and we have the word of Troup, his intimate friend from boyhood, that Washington, "before Congress had passed a single act," had "called on Hamilton and broached the matter of his secretaryship."[25] That the relations of the Secretary to the House would be very generally regarded as peculiarly intimate is likely in any case, because of the importance attributed to the power of the purse. And no advocate of an able and powerful administration could have forgotten the precedent of Robert Morris's leadership in Congress during the Revolution. Though the Secretary was now to be appointed by the President with the consent of the Senate, the intention was clearly to give him, on the floor of the House, the influence that had been wielded by a Secretary appointed by Congress itself. When the draft came before the House, a few Members of the Maclay type mongered maxims as to the separation of powers which they had evolved out of a vast ignorance of Montesquieu and *The Federalist.* Page of Virginia was alarmed lest the precedent "be extended until we admitted all the ministers of the Government on the floor." For Members might be led to surrender their own untutored judgment, beguiled by "the deference commonly paid to men of abilities" who have "thoroughly studied" the subject! What was this but "laying the foundation for an aristocracy or a detestable monarchy"? Fisher Ames, Benson,

Boudinot, Sedgwick and others, argued with great ability that to exclude the Secretary was to stultify the House and defeat the purpose of the Constitution. Madison argued in the best vein of *The Federalist* for ministerial "responsibility" as in the true interest of the House and of the nation. There can be little question that, if he had remained stanch, the measure would have carried as drafted. Yet when it was proposed as a compromise that the clause requiring the Secretary not only to "digest" but to "report" financial measures be changed to "digest and prepare," he threw his weight as leader of the Federalists in favor of it. Thus it rested with the House to declare at any time against framing its measures in open debate with the man whose *abilities* and *study* might enlighten it—and the American people. Six months later, when Hamilton was in office and about to make his Treasury reports, world-famous ever since, the question as to admitting him came up for decision. Madison, though "undisputed leader of the House," was absent in Virginia—detained, it appears, by his mother's illness. Jealous resentment of superior knowledge and authority prevailed, and Hamilton was obliged to present his report in writing.[26]

Thereafter if not then, to Hamilton's utter amazement, Madison exhibited "a perverseness" which "shut him up from free communication"—first with Hamilton and ultimately with Washington. So the faction to which *The Federalist* was *a lost book* gained a redoubtable leader in their opposition to its doctrine. The sword of the great debater was broken, his artillery silenced, and Congress was left to its own abilities and studies—to the system of secret committees with which both Houses were presently honeycombed.

What were the motives of this—a *perversion* which Maclay should have acclaimed? One can only state the known facts. Madison's adherence to the vigorously national policy of Washington and Hamilton had deeply alienated the "interested men" who controlled the Virginia Legislature. Knowing this, his preference was not to submit himself to them as candidate for the new national Senate but to appeal to his local constituents as candidate for the lower House. Urged strongly by Washington, he consented to be nominated for the Senate and was badly defeated. The opposition of the politicians was so bitter that they endeavored to defeat him even for the House by gerrymandering his district. From the opening of Con-

gress, he evinced a bias toward the popular anti-federal ideas. Fisher Ames unfailingly pays high tribute to his intellect, his learning and his forensic ability, but from time to time notes the new bias with evident concern. Madison's "politics" are "very much Frenchified," directed *"ad populum."* This, he says piquantly, "is the republicanism of the aristocracy of the southern nabobs." Very vividly Ames notes Madison's shift from the national to the sectional allegiance. "I say again that he is afraid, even to timidity, of his State"—his reasoning, "to my disgust and surprise," being new and strange. "Murmurs" from Virginia, "if louder than a whisper, make Mr. Madison's heart quake." With this collapse of will comes a slacking of moral fibre. Here no Federalist but the priceless Maclay is our authority. When the question was broached of General St. Clair's salary as Governor of the Western Territory, Madison favored the scarcely munificent sum of twenty-five hundred dollars; but when St. Clair antagonized the Virginians by opposing their wish to have the permanent Capital on the Potomac, he himself moved a reduction of five hundred dollars.[27]

So great was Madison's humility that he did not venture to take the leadership even in Virginia, which might easily have been his. While lingering at home, he had conferred with Jefferson, who had returned from Paris and was about to take his new post as Secretary of State. Four days after his appearance in Congress, when the Treasury report had been received but not considered, we find him writing Jefferson the scandals of the "Corrupt Squadron" of speculators in Government paper. Ceasing to be Washington's "particular friend" and Hamilton's, he became Jefferson's—and, so, ultimately, Hamilton's particular enemy. A far cry indeed from the time when the two little giants of the Constitution companionably leaned over a garden gate in Wall Street as they talked of *The Federalist* papers, or laughed together as they "played with a monkey that was climbing in a neighbor's yard."[28] In Hamilton's measures, essential to the nation's honor and prosperity, he saw only that for the time they lent themselves to the abuse of individuals. So far as his estrangement from his old allies was a matter of misunderstanding, it seems to have dated from his succumbing to Jefferson's personality—and to Jefferson's mind, which, in finance, was even more confused than his own. For Madison's apostasy the best excuse is that ad-

vanced by Gaillard Hunt, the ablest of his editors and most comprehensive of his biographers. He "went with his State." In so doing, he placed himself under "a party chief" at whose bidding he "often found himself in a position foreign to his former political habits" and obliged to countenance "methods of party warfare which Jefferson instigated and which no one can now excuse." [29]

XI

The contest that thus arose was regarded by historians for a full century as primarily social—between "democracy" and "aristocracy." Then Professor Beard showed that there was also an antagonism, essentially economic, between planter-agriculture and northern commerce. For the charge that Hamilton had an aristocratic bias there is a certain color of warrant. Though from earliest youth his political theory as to the United States had been strictly republican, and though he never departed from that theory even in the freedom of debate in the Convention, he was by nature an aristocrat and not beyond the temptations of arbitrary power. In the conflicts of three administrations he became a champion of the money interest, intransigent and sometimes without conscience. For the charge that his financial measures were partisan there is less warrant or none. Certainly he showed no trace of such an opposition toward agriculture as so many of the Virginians displayed toward commerce. If we judge his measures by the results that flowed so speedily and naturally from them—and that is the only fair test we have—they were conceived in the interest of no faction. He had to face in New York an opposition from equalitarian democrats and from "interested men" no less bitter and implacable than Madison faced in Virginia, but he stood to his guns undaunted, fighting for the nation as a whole.

As regards Washington—who, after all, was President of the United States and head of his own administration—no shadow of doubt is possible. His aim was a strong, honorable and prosperous Union based upon equal justice to all orders and interests. Like Madison and Jefferson he was a Virginian and a planter, but he went against his State and against its economic bias, believing that the prosperity of any section, its very liberty, could be achieved only by thinking first and always of the nation. That thought is the

sum and substance of the Farewell Address, in the writing of which Hamilton wrought in conjunction with him.

As Washington and those who stood with him saw the contest which culminated in the Revolution of 1800 it was primarily—as they said—between federalists and anti-federalists. As always, there was strife between men who were nation-minded and those "interested men" in the States. Jefferson's *democracy,* his professed subservience to *the people in mass,* no doubt had roots in the theoretic equalitarianism so strongly prevalent in what Fisher Ames rudely called "Virginia nabobs." It was as clearly intensified by Jefferson's enthusiasm for the French Revolution in its early stages. But throughout his life it had somehow dwelt in his capacious mind side by side with the prevalent constitutional theory. He did not apply it to the Constitution until after his bitter strife against Hamilton in Washington's Cabinet. We shall not understand the consternation and rage of the Federalists until we realize that, to their view, Jefferson overthrew their "system" by mobilizing against it the very forces of equalitarian democracy it was intended to hold in equilibrium—that he usurped the very name of *republican* to cloak principles destructive of the Republic. It was an added outrage that, even as he did so, he meticulously protested an abhorrence of party strife and an undying loyalty to the great principles of the Constitution. "We have called by different names brethren of the same principle. We are all republicans—we are federalists." When these fraternal words were spoken, Washington was in his grave. Yet if he had lived there can be little doubt that he would have looked upon the Revolution of 1800 as confirming his opinion of 1799 that those who fomented it were bent on *trampling upon the Constitution,* on making of it *a mere cipher,* and so *dissolving the Union.*[30]

This humbly subordinate and ancillary rôle of the democratic principle, as distinguished from the dominant spirit of Anti-Federalism, has ever since been obscured or ignored, and with it the much more important fact that the "Federalist system," as conceived by Washington and Adams—a republic equitably balanced and firmly united—was so far from being "aristocratic" as to embody the sanest and most generous liberalism. The American mind is of pragmatic habit, little disposed to hold inquest upon things that don't immediately work. And interested men of whatever party who aspire to lead

them have less than nothing to gain by suggesting that it is we ourselves who have failed and not the Constitution. The sorry truth is that our shortcoming has lain at precisely the points where the reliance of the Fathers upon us was the most exalted. As regards the Union, three-quarters of a century of the most brilliant debate which our country has known found the only solution in civil war—the most gigantic, relentless and destructive that had ever blackened the face of civilization. In our other great failure—the failure to create a justly balanced and representative republic—no sectional or economic opposition was at first involved. The question was merely whether we shall be governed by our ablest men, acting independently, or by party bosses and party machinery camouflaged as direct democracy. In the language of Harrington, the question was not of *interests* but of *orders*. Nor are we, the people, alone to blame. The Convention failed to provide the one sure means by which leaders in Congress and the Cabinet can be recruited from the ablest and best, "making the temple of virtue the road to the temple of fame"; and Washington himself failed to make use of the slender means that remained.

Meantime the industrial revolution has transformed our economic and social life—our *orders* and our *interests*. The problems of able leadership and the coalescence of executive with legislative must be stated in terms not of the eighteenth century but of to-day and of to-morrow. Until the *use* of parties, their *salutary purpose,* is brought to the support of a government truly representative, and until we have learned how to blend the vertical with the horizontal balance, both ourselves and the Constitution will in a measure have failed.

CHAPTER XVII

THE MODERN BALANCE

I

As seen from the point of view of the gigantic nation of to-day, with its multiplicity and turmoil of orders and interests, the Constitution as it took form in the minds of the Fathers has the simplicity and the rhythmic beauty of the houses they lived in. Like Georgian architecture, it was neo-classical, deriving from ancient Greece and Rome through Mediæval Italy and modern England. What it intended was a sort of manorial estate, a greater Mount Vernon, in which one and all should, as an unwisely derided phrase of old puts it, be content to live in the station for which the Creator designed them. We of to-day, living amid the onrush of mechanical progress, may well ask whether that eighteenth-century fabric is capable of the expansion and development which are requisite to meet the needs of to-day and to-morrow.

II

The first step, it seems to me, is to make a modern comparison between the English and American types of constitution—ours as it was intended to be and theirs as it has become. It is the comparison between a republic and a democracy. That has not been done in either nation. Highly characteristic of our own muddle-headedness is the fact that, proclaiming ourselves democrats, we profess to revere, and mainly do revere, our Constitution. It is as highly characteristic of the English rule-of-thumb and day-to-day habit of mind that the steady transformation from the horizontal balance of the eighteenth century to the vertical balance of the twentieth was not only unpremeditated but was, and still is, mainly unconscious. Bagehot, most realistic of observers and most comprehensive of thinkers, did not see what was portended until it had largely happened; even then he ignored the historic and philosophic backgrounds of the theory of the horizontal balance, dismissing it as merely literary. On

both sides of the Atlantic, writers have dwelt in his obfuscations rather than in his illuminations. Only a few years before the late war, Lawrence Lowell, in *The Government of England,* conceded that Bagehot's doubts were those of "the most penetrating of observers," and that the rival "bidding for support of whole classes of voters" by the English parties "presents probably the most serious menace to which British institutions are exposed." Yet, with an added generation of experience in progressive democracy, Lowell, as we have seen, still made light of his master's fears, declaring that whenever "the old equilibrium has been destroyed it has been replaced by a new one, not very different in character, . . . as intricate, as nicely adjusted and as worthy of study."[1]

It is, of course, conceivable that in a given nation the working of the vertical balance will be "not very different" from that of the horizontal—that the people should be so unswayed by passion, so wise to its own salvation, as to elect only its ablest and best and patiently follow their leadership. But it has yet to appear that such a nation exists. Even in the aftermath of the late war, when democracies had the habit of abdicating in favor of dictatorships, it required a juggler no less agile than Lloyd George—and, to use the mildest word, no less adroit—to keep the Khaki Ministry from toppling to its own ruin and to the ruin of the Versailles negotiations. During the first decade of peace, an effort was made to resuscitate the authority of the House of Lords by rendering it more nearly representative of the varied interests and abilities of the nation—a true senate. Thanks largely to a lack of clear comprehension of the issue, Liberals and Laborites saw in this only a subterfuge of the Conservatives to consolidate their power, and so buried it in ridicule. In a way the suspicion was justified, for the Conservatives themselves had no clear conception of the horizontal balance. Twice since the war there has been a Ministry elected by the Labor Party—the House of Have Not. Both times it has been a minority in Parliament and obliged to confine itself to measures for which it could gain support from the old parties, and so perforce has conducted itself with moderation and a good measure of ability. But it remains frankly socialistic in theory, and it is largely dependent upon a left wing which is communistic and which is ceaselessly boring from within.

It cannot be too often repeated that the crucial test of democracy

and the vertical balance will come only when Laborites, Socialists and Communists command a clear majority. For the present, men and women who by birth and tradition are of the old parties are seeking and obtaining leadership in the new, presumably with the idea that they can exert a moderating control. The fate that overtook their like in Revolutionary France is doubtless not a leading precedent; one is aware that Englishmen are not French. Yet in any country the majority are poor and painfully aware of their poverty. When hunger gnaws, when wife and children suffer, it is not strange if they listen to those who, though their ideas may be not very comprehensible, are of their own class and promise ready relief. Englishmen take much comfort from the fact that in 1926 the Government so effectually put down the General Strike; but it did this by virtue of the fact that it was Conservative, and in full charge of the police power and the machinery for making it effective. If a labor ministry had been in power, the shoe might have been on the other foot. What then would have happened to gentry who tried to stem the tide of revolt? If "the most penetrating of observers," who was also the wittiest, were alive to-day, he would find a new field for thought—possibly a new application for his old epigram. Let us hope that the men of Britain will prove able to "work *any* constitution."

III

Meantime it may be well to consider whether the measure of sanity and stability which the American government revealed during the Civil War and the World War did not result rather *from* the Constitution than in spite of it. Though the balance intended by the great leaders in the Convention was imperfectly realized and has largely disappeared, the checks remain. Powerful as has been the spirit of democracy, it has not been able to affect the independence of the Supreme Court or indeed of the President. Even Senators have courage to resist popular clamor when they have, as they put it, a six-year pulse or a five-year pulse as distinguished from a two- or one-year pulse. Yet such a government is only half, and the lesser half, of what the Fathers intended. All checks and no balance makes it clumsy and cumbrous, responding slowly and imperfectly alike to the wisdom of the nation and to its will.

To-day more than ever we feel the misfortune. Together with the Revolution of 1800, the world has suffered the impact of another new force, the Industrial Revolution, which has transformed the life and thought of nations even more fundamentally. And, while democracy is on the wane, the industrial movement gives every evidence of permanent growth. Precisely as the unitary agricultural England of Harrington became divided in the eighteenth century between the *interests* of agriculture and commerce, each with its peculiar *order,* so the industrial fabric has developed, on both sides of the Atlantic, multifarious and generally opposed interests and orders. When our Constitution was framed, the merely territorial basis of representation was adequate—or, if not, it was rendered inevitable by the exigencies of federal union. To-day we have many economic units which are far more vital to the national life than any single State, and which cut across State lines to a national extension—railways and coal mines and steel industry, to mention a few. To the agricultural poor we have added the industrial poor—who are no longer quite so poor, having developed an organized "faction," the American Federation of Labor, to impose their demands upon employers and legislators. In Harrington's phrase, many groups within the nation "have the interest," and, "having the interest have the power," to "disrupt it with sedition." As yet we have had no such crisis as the English coal strike and its sequel the general strike, which crippled the nation so sorely—perhaps permanently; yet we suffered the infamous coercion of the Adamson act and a general profiteering during the war. The strike in basic industries and public utilities has long been familiar; except for our widely distributed prosperity it would be equally menacing. The struggle of farmer against railway and manufacturer has been needlessly injurious to both, to all of us. Can any nation in which collective prosperity and liberty itself are subject to the arbitrary will of this or that faction claim to have solved the problem of free institutions, of self-government?

The orders of wisdom and virtue likewise have become many and diverse. Industry is passing into the control of educated experts, and the labors of social welfare scarcely less. Legal and medical professions, universities and churches, present an astonishing array of intellectual life, of intellectual needs. In the eighteenth century it was

assumed, and with essential justice, that, if only a man were free to labor, the welfare of the deserving was assured. The poor of that day were indeed poor in money, but they were land rich. Once the Constitution was established, the individual liberty of the Jeffersonians seemed enough. Now our free lands are spent, and the life of the factory-city has raised bitter problems. The liberty of the poor has ceased to be factional and has become a collective liberty, to be attained less by factional than by national leaders. Meantime mankind has become endowed with feelings and principles of humanity which in the eighteenth century were quite as undreamed as the factory system. Since Ruskin it has been observed by true observers that the primary wealth of a nation is not property but the health and character of its citizens. Yet the leaders of all these new orders, representatives of the new interests, seldom or never make their way into Congress—in effect are debarred from it by the exigencies of their lives and of the party system. To that extent the Federalist ideal is defeated: our councils do not include the wisdom and virtue of the nation.

IV

To the need that interests be represented as such, enthusiasts of economic determinism are keenly alive and intelligent, seeing in it the hope of a quasi-syndicalist, guild-socialist state. Our two great parties also may be said to be keenly alive to it, being torn in their vitals by groups that can achieve their just ends only by a species of blackmail upon them. But are they keenly intelligent? If Republicans were so, they would scarcely continue to describe themselves as "the party of" the author of the great plea and warning against parties. The last person to inquire what was really the thought of the Fathers is the professing conservative. But, thanks to the breakdown of the party system, even he may soon feel himself driven to that painful necessity.

As early as 1770, we have seen, Burke recognized that parliamentary reform, so needful to curb the mad arrogance of George III, would have the effect of excluding from Parliament important interests already emerging, both commercial and professional, and so of rendering the government, in the sense of Harrington, unbalanced. Quite frankly he weighed that injustice against the corrupt

influence of the King, though he saw this to be ruinous; and he pleaded that the reformers, while destroying old abuses, should not create new ones. In our Constitutional Convention, Charles Pinckney—who, like most of his fellows, spoke by the books of Harrington and John Adams—said that we had only "three classes" to be represented, "professional men," "commercial men" and "the landed interest." He held with Harrington, as did all the Fathers, that representation should be "full and free," and thus "present a true picture of the nation"; but he declared that in America the three orders "had but one interest." His comparison being with the class-ridden nations of Europe, the statement was measurably true and significant; but Madison presented a view more realistic—a brilliant enlargement upon Burke's idea and a perfect example of the transcendant power of his mind when unbiassed by personal influences. "In all civilized countries, the people fall into different classes havg. real or supposed differences of interest. There will be creditors & debtors, farmers, merchants & manufacturers. There will be particularly the division of rich & poor." He foresaw the coming extension of the suffrage and predicted that, unless care were taken to preserve a due balance, "the power will slide into the hands of" the poor. "In framing a system which we wish to last for ages, we shd. not lose sight of the changes which ages will produce." [2]

In the tenth number of *The Federalist* Madison developed more clearly this idea of coming factional strife and added: "The regulation of these various and interfering interests forms the principal task of modern legislation, and [my italics] *involves the spirit of party and faction in the necessary and ordinary operations of government.*" His hope lay in the very scope and inclusiveness of the legislative chambers. *"Extend the sphere, and you take in a greater variety of parties and interests;* you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens." Not for over a century did any one see and express so clearly the great problem of to-day and to-morrow, the problem of unrepresented special interests with their congressional *blocs.*

Long before the flagrant modern development, however (1898), Professor Henry Jones Ford, perhaps the keenest and most realistic of our constitutional critics, described as accomplished fact all and more than Madison foreboded. Congress responded to "every inter-

est except the public interest"—that is, to every interest that was "organized." Again: "The acrid and fretting humors of the body politic . . . receive attention, while social interests of incomparably greater magnitude are ignored." To-day reformers cry out against this as something wholly bad, to be abolished at one fell swoop, notably Richard Washburn Child, whose diatribe against parties and "democracy" is in general so refreshing.[3] Professor Ford, a close student of Burke, perceived that, so long as our government remains as it is, extra-constitutional pressure is inevitable—and indeed indispensable to group needs that lack regular representation. In 1924, looking backward with indulgence upon the once reprobated reign of Mark Hanna and his like, he wrote: "The escape of the United States from ruin . . . is doubtless to be attributed to the way in which its politics have been commercialized."[4] Lobbyists for "the interests" bribed and intimidated, but they also furnished technical knowledge indispensable to sound legislation. In 1928 Pendleton Herring made a survey of the hundreds of group lobbies in Washington, almost one hundred of which he found to be "consistently effective" in giving Congress needed knowledge and direction; and he amplified Professor Ford's conclusions, bringing them down to date.[5] In 1929, a professional lobbyist, "on leave of absence" from his manufacturers' association, was put on the government payroll and admitted to secret meetings of a tariff committee—and the senator who arranged all this defended it as a measure necessary for dispelling his own inevitable ignorance.[6] Precisely as Burke excused the buying of seats in Parliament by representatives of new interests and orders, so we have come to see a certain use even in the control of Senators by business groups whose legitimate needs require legislation.

Properly stated, the problem is not of abolishing the blocs—we might almost as easily abolish the interests they represent; it is the problem of bringing their operation within the frame of the Constitution. When political bribery takes the form of excessive campaign contributions we pass laws to control it. Political blackmail upon individual Congressmen by threat of opposition at the polls, whether from organized groups having lobbyists at the Capital or from citizens writing letters and telegrams, might as easily be banned. Yet neither remedy can affect more than superficial symptoms, and both

are certain to check new and necessary developments together with old abuses. Those words of Madison's suggest a drastic remedy. Representation requires to be extended until it includes "a greater variety of parties and interests," and to be so framed that none of them can achieve its particular ends without duly considering the interest of others, of the whole. As Washington put it, parties can serve a "salutary purpose" only if they are prevented from putting their own will "in the place of the delegated will of the nation," and especially when they represent only "a small but enterprising minority of the community." "Public administration" must not be "the mirror of the ill-concerted and incongruous projects of faction," but must be "the organ of consistent and wholesome plans digested by common councils and modified by mutual interests." The Fathers did not foresee our present predicament. Not even Burke had any clear conception of the two-party system as it developed, and no man could have known in advance the multifarious effects of the Industrial Revolution. To-day it would be a hardy reformer who would say just how the inevitable strife of political parties can be so purged of noxious partisanship as to become "salutary." But it is well worth while to note that, in the abstract, the Fathers had thought out the problem of interests and parties in a republic to a definite conclusion, and to conjecture, however roughly, the manner in which the constitutional balance might be developed so as to give scope to our modern orders.

This much seems clear: To fulfil the intent of the Constitution we should see to it that all the new factors in our national life be represented, not by paid lobbyists working under cover, but by men of the highest ability and character, duly elected from each major group, who shall match minds with one another in full view of the electorate. That accomplished, there would be every reason why President and Senate in consultation should choose men from the existing Legislature to serve in the Cabinet. Success in business and professional life would lead naturally to the great legislative and administrative posts, even to the Presidency. Men such as Herbert Hoover would rise by no arduous and circuitous route—in the face, as it were, of Congress and thus resented by all narrow minds there; they would gain their experience and their preferment *pari passu* and owe advancement to their fellows who know them best. Last

but not least, the Constitution would receive the intended balance, and with it that *blending* of legislative and executive which the leading minds in the Convention fought for and which a century and a half of experience has shown to be requisite to effective republican government.

One obstacle to such a reform lies in the misrepresentative character of the Senate, which is generally regarded as the forum of "functional" representation. Various schemes have been advanced for evading the rigid prohibitions of the Constitution.[7] Even if that were possible, the disparity in size and importance of the various new interests offers a great obstacle to proportionate representation in a small chamber. Far more feasible is the idea of mingling, in the House, representatives of the new interests with the more equitable representation of the nation as a whole. Given an assembly so constituted, and given also a blending in its debates of the executive voice with the legislative, the House could not fail to regain its proper equality, reducing the Senate to its true office as a balancing upper chamber—the office which the House of Lords should perform as against the great forum of the House of Commons. As Professor Ford pointed out, nothing is better calculated to enhance the dignity and importance of a legislative chamber than to enhance its clearly recognized responsibility by blending it with the executive. That has been the result not only in the classic instance of the English Parliament but in France, Norway and many other countries.[8]

There may seem to be little chance of such a reform. Even that small and clumsy blending of executive and legislative which the Constitution permits has been doggedly resisted by House and Senate, though persistently advocated by a series of our ablest thinkers beginning with Joseph Story. Small hope of constitutional amendments so much more drastic! There is, however, a difference. As at present constituted, the President and his Cabinet are an alien body; and, being recruited from the very business and professional spheres to be affected by legislation, they are likely to be men of greater ability in those spheres than the legislators. To admit them to the give-and-take of joint counsels may well seem to threaten the stability of the constitutional balance; it would certainly threaten the equal dignity of the Legislature. But if the Legislature were com-

posed of the ablest representatives of our varied business and professional interests the case would be radically altered, and especially if they found themselves in the customary line of promotion to the great secretaryships and to the presidency.

V

This problem of placing the wise and good of our commercial and professional life in the seats of government presents difficulties as great as the problem of rendering party strife salutary. It has been discussed at length by writers, mainly of a syndicalist cast, such as Mr. G. D. H. Cole and Professor Laski, and with results not very satisfactory even to themselves.[9] More illuminating perhaps is the current object-lesson afforded by Fascist Italy. The idea which was adumbrated by Harrington and Madison and Washington, and was developed by modern radicals, Mussolini is applying to the purpose of a truly national and anti-socialist regeneration. No doubt we do well to deprecate dictatorship; yet it scarcely becomes us to ignore the fact that the Fascist state has achievements to its credit thoroughly in line with those intentions of our Constitutional Fathers which have most signally failed. It has a franchise limited to those who labor and, in the true sense of the word, produce. It acknowledges the need of due representation for all orders and interests in the modern nation, and it provides that no interest, not even organized labor, shall "disrupt it with sedition." By this means it hopes that the excesses of party spirit, though as yet they require to be forcibly suppressed, may eventually subside.

Especially to be noted is the fact that Fascism embodies a conception of liberty which is as significant for the Anglo-Saxon world of to-day as it is in tune with the conception of the Fathers. Since the fall of the Federalists, our thought has concerned itself unduly with the liberty of the individual. Dear as that is to our race and indispensable to the nurture of genius, it is not the sole, scarcely even the predominant, factor in human freedom. Equally important is the power of a nation to rise untrammelled to its full stature through the concentrated effort of its collective intelligence. Without this, the liberty of the individual may be, must be, shorn of its highest development; for it is not merely as an individual, but also as identified with a generation and a nation, that the human mind and spirit

reach their full fruition. To Democrats especially—to "mankind in the mass"—collective liberty is indispensable, for it converts what a few conceive into general prosperity and happiness. Whether Italy will be able to stabilize its achievements under a system of free discussion and truly popular election may be doubted. Conceivably it may find that imposed authority is as congenial to the genius of its people as constitutional self-government is to us. Our present purpose is to point out that syndicalist theory, as Fascist practice is developing it, suggests one way, perhaps the only way, by which, in the terms of modern life, the horizontal balance may be realized and blended with the vertical—and the lost ideas of the Fathers be wrought into the fabric of our republican Constitution.

VI

Many modern problems become clearer in the light of our true constitutional theory, and none more so than that stronghold of liberal aspiration, the League of Nations. In Europe the chief obstacle to its success is parliamentary democracy, the vertical balance unblended. Every decision of importance must be immediately understood by, and acceptable to, the ministerial majority of the moment. That means that it must be beyond effective cavil and misrepresentation at the hands of the opposition party. This first became clear to us at the Versailles Conference, though our representatives tactfully refrained from saying so in public and our newspaper men were prevented by the censorship. One and all were deeply scandalized by the evasive shifts of the great premiers, made with a view to home politics. As one of our chief negotiators assured me, Lloyd George's position on any leading issue might be reversed over night by an editorial in *The Times*. All the premiers, abetted by the censorship, withheld essential facts from public knowledge, such as our senatorial round-robin explaining the Constitutional limitations upon the treaty-making power of our President. As a result, President Wilson's "promise" as to a tri-partite treaty against Germany is not yet understood in Europe. In France especially we are held to have been cynically false to our word. The touchstone of a negotiation upon which the very existence of civilization depended was not ministerial wisdom but the uninformed, the intentionally misinformed, will of the masses.

At Geneva, the same forces of democracy work as steadily and as disastrously. So long as the great Protocol of 1924 was in process of framing, the statesmen of Europe—including, it must be said, representatives of the first English Labor Ministry—showed a breadth of comprehension and a forbearance that amazed and delighted men sadly familiar with our own government. But almost from the start it was manifest that the nations were not yet prepared to accept the abatement of their sovereignty upon which the Protocol was based. First Japan and then Italy registered reservations which took all virtue from their agreement. The English delegation did not do this, and one member of it, more candid than wise, admitted to the press that the Protocol would subject the English navy to the command of the League. Not Britannia would rule the waves but a group of Swiss admirals! The first effect of "responsible" parliamentary leadership was shown when a newly elected Conservative Government repudiated the work of the Laborites, refusing to ratify the Protocol. Thereupon Continental statesmen, throwing to the winds the candid "spirit of Geneva," and ignoring the fact that Italy and Japan had done the Protocol to death before it was born, made partisan capital out of the cry that England had "knifed" it.

In America, partisan strife works in a different manner but to the same effect. So far as their present tenure of office is concerned, our negotiators of international agreements are able to act in accordance with their best knowledge and wisdom, trusting that time and enlightened opinion will vindicate them. President Wilson's steadfast independence at Versailles was a nine-days' wonder. But whatever they do requires the consent of two-thirds of a Senate in which they may not even have a majority. And there are generally members of their own party eager to make personal political capital out of obstructionist and obscurantist outcries. If we were in the League, every major decision would be thrown to the dogs of partisan controversy. We should be eternally subject to such misrepresentation as England suffered in the matter of the Protocol—and, with England, the cause of human welfare. Before we can work effectively within the League, our Senate must somehow be taken out from the blighting shadow of merely partisan politics. In Washington's words, which cannot be too often repeated, it must cease to be "the mirror of the ill-concerted and incongruous projects of faction" and

become "the organ of consistent and wholesome plans digested by common councils and modified by mutual interests."

VII

What Washington urged, in brief, was enlightened self-control. In the nineteenth century, Bagehot attributed the success of the English Constitution to the fact that the nation was instinctively *deferential* to the majesty of the Crown and to the imposing splendor of the aristocracy—under cover of which the patriotic ability of the nation had full scope; and he thought that if the people ever ceased to be thus deferential the Constitution would not work as of old. Washington set his face steadily against monarch and aristocrat, placing his reliance upon the pure spirit of a republic. A certain deference he expected, but of a very different sort. The "constituted authorities" would be able to serve the nation effectively only if their independent deliberation were demanded, and their impartial decision were supported by, "the force of public opinion." In Washington's vision, the American people were to defer, not to the pomp and circumstance of hereditary orders, but to men whom they themselves had chosen from their own number for patriotic virtue and wisdom.

The question, as Secretary Hughes and Owen Young said, is of our willingness to give scope to expert ability. To the superstition of the divine right of kings, we gave the *coup de grâce;* but even while doing it we deluded ourselves with another as false, the divine right of "the people in mass"—*vox populi, vox Dei.* The great constitutionalists—Hamilton in the Convention and John Adams out of it—declaimed against it with all their titanic energy. Even now we are not impressed. In managing business corporations, and in all the extra-political organizations which we handle so ably, direct submission to majority vote of the uninformed would be set down as sheer idiocy; but in the business of government we regard it with an awe essentially religious. That, and that only, is the reason why the Constitution has become a mere congeries of mechanical checks, bereft of the balances that were intended to inspire and control their interplay. Is the true republican deference a thing quite beyond our virtue?

To the superficial view, deference of any sort seems alien enough

to our democracy. But beneath the surface of crude undiscipline and self-assertion, Americans have, and have always had, a very real regard for ability tried and proved—for genuine success. Very significant is the modern decline of interest in politics, the percentage of those who vote in presidential elections being seldom above seventy and falling as low as fifty. But equally and more pleasantly interesting is the concurrent increase of the passion for education. Universities everywhere are besieged and overrun by hordes of young folk of all sorts and conditions. Precisely as we once asserted the might of a republic firmly grounded in the whole body of qualified citizens, so now, though tardily, we are in train to defer to the aristocracy of nature—to our great leaders in business and the professions. Little as Americans are interested in "self-government" as manipulated by party, they have an abiding interest in good government. In order that that interest be realized, it is first of all necessary that the democratic dogma be laid. That, among other things, was what Washington meant when he counselled the Convention to raise a standard to which the wise and good might repair. That is still his message to us—and the event is still in the hand of God.

Meantime, something will be gained if we cease to think of the Constitution as a thing fundamentally mistaken and obsolete, as so many even of its professed adherents have come to do. It has stood and still stands rock-ribbed against assault. Its basic theory remains comprehensive and sound; and, as Washington so often said, it contains within its fabric the means of every necessary amendment. We have only to be true to the best wisdom of the men who framed it in order to make it the most perfect scheme of government ever devised for a free people. Far from being obsolete, it is a creature half-born that calls on us incessantly to breathe into it its predestined soul.

EPILOGUE

CHAPTER XVIII

EPILOGUE

In the voluminous record of what Washington wrote and said there is one passage, and only one, which voices distrust of the American people. It is a passage which Irving quoted from his diary, now lost, of the year of his inauguration. As the finest figure on horseback in America made his more than royal progress from Mount Vernon to New York, mounted on a white horse that also filled the eye of admiration, the outward seeming was indeed fair. From the towns along his way, troops of his old soldiers rode out to greet him, and conducted him to feasts of many and exultant toasts. At Trenton, where his fortunes in the Revolution had taken the up-turn, a laurel-bowered pergola of thirteen white columns spanned the Assunpink bridge; and young girls, in white and flower-crowned, led him over it, singing. At New York a barge manned by pilots in white swept him across the harbor to the Wall Street wharf, amid the thunder of big guns. It was an experience which heroic youth has often dreamed—and so seldom realized. Assuredly the spirits of Juba and of Marcia rode with him—the fair hope of establishing the first great republic since that in the name of which Cato died. For nothing is so deeply founded in human nature as the achievements which we call superhuman. That Washington was powerfully moved is unquestionable—is evident in this very passage. Yet he knew well what forces of ignorant envy and detraction he was fated to encounter; and, as always, a modest diffidence haunted him. Of his approach to New York, he wrote: "The display of boats which attended and joined us on this occasion, some with vocal and some with instrumental music on board; the decorations of the ships, the roar of cannon, and the loud acclamations of the people which rent the skies, as I passed along the wharves, filled my mind with sensations as painful (considering the reverse of this scene, which may be the case after all my labors to do good) as they are pleasing." [1]

Once more, as when it was a question of presiding over the

Constitutional Convention, this man's mind was obsessed with fear —a fear in sharp contrast with his moral and physical valor. In command of his ragged army at Princeton, he had dashed in advance of a terrorized line, reined in his white horse to an equestrian pose thirty paces from the British regulars as they fired a volley, then turned and faced the equal danger of ordering his own shaken soldiers to fire. As the smoke cleared, he galloped along the line, waving his hat and shouting his men forward. But when he faced his inauguration as President he was, as Fisher Ames recorded, "grave almost to sadness"—"actually shaking" in an access of "modesty." In the matter of his spectacles he bungled painfully. The stinging glance of Senator Maclay noted that he awkwardly shifted the text of his Address from left to right and nervously fumbled with the empty hand at his breeches pocket. Once "he made a flourish with his right hand"—which was so unlike those flourishes before Princeton that it "left rather an ungainly impression." [2]

Washington knew what to be afraid of.

All too soon that scene of his triumphal progress was indeed *reversed*. Jefferson himself recorded the towering wrath to which factional vilification moved him, as others recorded the resolute patience of his official conduct. But only those who know how clear and firm was his constitutional principle and how pure the sources of his republican idealism, can know with what anguish he encountered the Revolution of 1800, its ignorant flouting of the Constitution and its reckless drift toward disunion.

APPENDICES

APPENDIX I

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CHAPTER XIII: THE REAPER AND HIS SCYTHE

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CHAPTER XIV: FATHER OF THE CONSTITUTION?

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41 Hunt, *Writings,* II, 409.
42 Farrand, *Records,* I, 34.
43 Farrand, *Records,* II, 8–9.
44 Ford, *Writings,* XI, 133.
45 Ford, *Writings,* XI, 54, 102.
46 Ford, *Writings,* X, 276.

CHAPTER XV: ECONOMIC DETERMINISM IN THE REPUBLIC

1 *The Times Book Review,* March 16, 1924.
2 Adams, *Life and Works,* I, 441–2.
3 Farrand, *Records,* II, 284.
4 Farrand, *Records,* III, 291, 352; Maclay, *Journal,* 75.
5 Farrand, *Records,* III, 381.
6 Farrand, *Records,* III, 551.
7 Beard, *Economic Interpretation of the Constitution,* 145.
8 Beard, *Economic Origins of Jeffersonian Democracy,* 106, note.
9 Corbin, *The Return of the Middle Class,* Chapters X and XI.

CHAPTER XVI: FAILURES OF THE CONSTITUTION

1 *The Federalist,* LXIII, LXVIII—in Lodge, *Works of Hamilton,* XII, 141, 176.
2 New York *Times,* December 12, 1924, page 6.
3 The leading editorial in *The Times* of December 13, 1924.
4 Lowell, *Government of England,* I, 435.
5 Burke, *The Present State of the Nation,* and *The Present Discontents; Works,* I, 382 ff., 444 ff., 523 ff.; Lowell, *England,* 436, note; Griffin, *A Catalogue of the Washington Collection in the Boston Athenæum,* 38.
6 Lecky, *History of England,* I, 474; Macaulay, *History of England,* I, 98 ff.
7 H. J. Ford, *American Politics,* 323; *Representative Government,* 240; Child, *The Writing on the Wall,* 146, 231.
8 Lecky, *History,* I, 2–3.
9 Beard, *An Economic Interpretation of the Constitution; Economic Origins of Jeffersonian Democracy.*
10 Story, *Constitution,* Section 869. New York *Times,* February 3, 1924.

11 *The Federalist,* XLVII, XLVIII, LI. See especially, Lodge, *Works of Hamilton,* XII, 42–43.

12 Farrand, *Records,* I, 64 ff., 68, 70, 72; J. C. Hamilton, *History of the Republic,* III, 263.

13 Farrand, *Records,* I, 64–65, 70, 73–74; II, 539; III, 604–609.

14 Farrand, *Records,* I, 139; III, 111, 606.

15 Learned, *The President's Cabinet,* Chapters I–IV; Warren, *The Making of the Constitution,* 643–650.

16 Ford, *Essays on the Constitution,* 163; *Massachusetts Bulletins for the Constitutional Convention of 1917–18,* I, 111–112.

17 Bancroft, *Constitution,* I, 474, 479; Reed, *Reed,* II, 374–5, 376, 393.

18 Macaulay, *England,* IV, 531; Namier, *Politics,* Volume I, passim.

19 Burke, *The Present Discontents,* in *Works,* I, 519.

20 Farrand, *Records,* II, 284–5; 538–9.

21 Farrand, *Records,* I, 375 ff.; II, 283 ff., 489 ff., 539–540; III, 148, 201; Warren, *Making of the Constitution,* 639 ff., 643 ff.

22 Farrand, *Records,* II, 638–9; Elliot, *Debates,* IV, 314.

23 Learned, *The President's Cabinet,* 36.

24 Maclay, *Journal,* 30, 75, 121–133.

25 J. Q. Adams, *Memoirs,* IV, 217, noted by Learned, *The President's Cabinet,* 109; J. C. Hamilton, *History of the Republic,* IV, 29, note.

26 *Annals of Congress,* 25 June, 1789, and 9 January, 1790. Rives, *Life of Madison,* III, 71.

27 Rives, *Life of Madison,* II, 646–657; H. J. Ford, *Hamilton,* Chapter XV; Fisher Ames, *Life and Works,* I, 35–65, passim; Maclay, *Journal,* 150.

28 J. C. Hamilton, *History of the Republic,* IV, 29, note.

29 Hunt, *Life of Madison,* 211–212.

30 Jefferson, *Writings,* III, 319; Ford, *Writings of Washington,* XIV, 105, 110, 123, 137, 138, 143.

CHAPTER XVII: THE MODERN BALANCE

1 Lowell, *Government of England,* II, 535, 539–540.

2 Farrand, *Records,* I, 402, 422.

3 Child, *The Writing on the Wall,* Chapter IX.

4 Ford, *Rise and Growth of American Politics,* 233, 329; *Representative Government,* 240.

5 Herring, *Group Representation Before Congress,* Chapter XIV.

6 New York *Herald Tribune,* Sept. 26, 1929.

7 Elliott, *The Pragmatic Revolt in Politics,* 175 and note.

8 Ford, *Representative Government,* 180–181, 234.

9 Cole, *Self-Government in Industry* (Edition of 1919), especially Chapter V; Laski, *A Grammar of Politics,* especially Chapter VII. For criticism of Guild Socialism, see Elliott, *The Pragmatic Revolt in Politics,* Chapter VI, and Corbin, *The Return of the Middle Class,* Chapters IV and VIII.

CHAPTER XVIII: EPILOGUE

1 Irving, *Life of Washington,* IV, 580; Schroeder-Lossing, *Life,* IV, 1579; not in Sparks, *Writings,* nor Ford, *Writings,* nor Fitzpatrick, *Diaries.*

2 Gordon, *History of the Independence,* II, 401–402; Custis, *Memoirs of Washington,* 191–2; *Pennsylvania Magazine of History,* XX, 517—quoted by Hughes, *Washington,* III, 35.

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